

EXHIBIT 1**FEEZLE LEADERSHIP STRUCTURE AND INTERIM CLASS COUNSEL**

	COUNSEL	ROLE	PAGE NUMBER IN THIS EXHIBIT
1.	Jayne Conroy Simmons Hanly Conroy 112 Madison Ave., 7th Floor New York, NY 10016	Interim Class Counsel; Co-Lead Counsel	1
2.	Seth A. Katz Burg Simpson Eldredge Hersh & Jardine, P.C. 40 Inverness Drive East Englewood, CO 80112	Interim Class Counsel; Co-Lead Counsel	8
3.	M. Elizabeth Graham Grant & Eisenhofer 123 S. Justinson Street, 6th Floor Wilmington, DE 19801	Interim Class Counsel; Co-Lead Counsel	16
4.	Mike Morgan Morgan & Morgan 4495 South Semoran Boulevard Orlando, FL 32807	Co-Lead Counsel	24
5.	Mark P. Chalos Lieff Cabraser Heimann & Bernstein, LLP 222 2nd Ave. South, Suite 1640 Nashville, TN 37201	Plaintiffs' Executive Committee	29
6.	Vincent L. Greene, IV Motley Rice, LLC 40 Westminster St., 5th Floor Providence, RI 02903	Plaintiffs' Executive Committee	39
7.	Chris Seeger Seeger Weiss, LLP 55 Challenger Road Ridgefield Park, NJ 07660	Plaintiffs' Executive Committee	54
8.	Mikal C. Watts Watts Guerra 4 Dominion Drive Bldg. 3, Suite 100	Plaintiffs' Executive Committee	61

	San Antonio, TX 78257		
9.	Charles Schaffer Levin Sedran & Berman 510 Walnut Street, Suite 500 Philadelphia, PA 19106	Plaintiffs' Executive Committee	69
10.	James Bilsborrow Weitz & Luxenberg 700 Broadway New York, NY 10003	Plaintiffs' Executive Committee	80
11.	Michelle L. Kranz Zoll & Kranz, LLC 6620 West Central Ave., Suite 100 Toledo, OH 43617	Plaintiffs' Executive Committee & Plaintiffs' Liaison Counsel	86
12.	Daniel Karon Karon LLC 700 W. St. Clair Avenue, Suite 200 Cleveland, OH 44113	Plaintiffs' Steering Committee	92
13.	Roger Denton Wright & Shulte, LLC 865 S. Dixie Dr. Vandalia, OH 45377	Plaintiffs' Steering Committee	114
14.	Neal Shapero Shapero Roloff Co., LPA 1111 Superior Avenue East, Suite 1310 Cleveland, OH 44114	Plaintiffs' Steering Committee	119
15.	Brian Kopp Betros Kopp & Markota 6630 Seville Drive Youngstown, OH 44406	Plaintiffs' Steering Committee	121
16.	Alyson Beridon Herzfeld Suetholz Gastel Leniski and Wall PLLC US Bank Building 425 Walnut Street, Suite 2315 Cincinnati, OH 45202	Plaintiffs' Steering Committee & Co-Liaison Counsel	123
17.	Margaret M. Murray Murray & Murray Co., L.P.A. 111E. Shoreline Drive Sandusky, OH 44870	Plaintiffs' Steering Committee	136
18.	Joyce Reichard	Plaintiffs' Steering	144

	Kelley Ferraro LLC Ernst & Young Tower 950 Main Avenue, suite 1300 Cleveland, OH 44113	Committee	
19.	Gary A. Corroto Plakas Mannos 200 Market Avenue North, Suite 300 Canton, OH 44702	Plaintiffs' Steering Committee	146
20.	Ashlie Case Sletvold Peiffer Wolf Carr Kane Conway & Wise, LLP 6370 SOM Center Road, Suite 108 Cleveland, OH 44139	Plaintiffs' Steering Committee & Plaintiffs' Co-Liason Counsel	148
21	Wesley D. Merillat Charles Boyk Law Offices, LLC 1500 Timberwolf Holland, OH 43528	Plaintiffs' Steering Committee	150
22.	Kelly Iverson Lynch Carpenter LLP 1133 Penn Avenue, 5 th Floor Pittsburgh, PA 15222	Plaintiffs' Steering Committee	151
23	Douglas J. Olcott Edgar Snyder & Associates, LLC 600 Grant Street, 10 th Floor Pittsburgh, PA 15219	Plaintiffs' Steering Committee	162
24.	Daniel Aaron Rihn Robert Pierce & Associates 707 Grant Street, Suite 125 Pittsburgh, PA 15219	Plaintiffs' Steering Committee	164
25.	Dena Young Berger Montague, PC 1818 Market Street, Suite 3600 Philadelphia, PA 19103	Plaintiffs' Steering Committee	168
26	Stephen Bassar Barrack Rodos & Bacine 2001 Market Street, Unit 3300 Philadelphia, PA 1910	Plaintiffs' Steering Committee	185
27.	Gary Klinger Milberg Coleman Bryson Phillips Grossman, LLC 221 W. Monroe Street, Suite 2100	Plaintiffs' Steering Committee	189

	Chicago, Illinois 60606		
28.	Andrew Schlichter Schlichter Bogard & Denton LLP 100 South Fourth Street, Suite 1200 St. Louis, MO 63102	Plaintiffs' Steering Committee	197
29.	Daniel J. Thornburgh Aylstock Witkin Kreis Overholtz 17 East Main Street, Suite 200 Pensacola, FL 32502	Plaintiffs' Steering Committee	199
30.	Nicholas T. Amato Amato Law Office, LPA 420 Broadway Avenue Wellsville, OH 43968	Community Liaison Counsel	203
31.	Greg Farkas Frantz Ward LLP 200 Public Square, Suite 3000 Cleveland, OH 44114	Subcommittee & Member	
32.	Grant McKay Law Offices of Grant McKay 700 W. St. Clair Avenue Cleveland, OH 44113	Subcommittee & Member	
33.	Zachary J. Murry Barkan & Robon, Ltd. 1701 Woodlands Drive Maumee, OH 43537	Subcommittee & Member	
34.	Michael O'Shea Lipson O'Shea Legal Group Hoyt Block Building, Suite 110 700 W. St. Clair Avenue Cleveland, OH 44113	Subcommittee & Member	
35.	Patrick Perotti Dworken & Bernstein, Co., LPA 60 South Park Place Painesville, OH 44077	Subcommittee & Member	
36.	Tom Pirtle Laminack Pirtle & Martines, LLP 5020 Montrose Boulevard, 9 th Floor Houston, TX 77006	Subcommittee & Member	

37.	Scott Bertram Bertram & Graf 2345 Grand Boulevard, Suite 1925 Kansas City, MO 64108	Subcommittee & Member	



JAYNE CONROY (NY, MA & DC)
jconroy@simmonsfirm.com
Phone - (212) 784-6402

112 Madison Avenue, 7th Floor
New York, New York 10016

March 15, 2023

Hon. Benita Y. Pearson
United States District Judge
Thomas D. Lambros United States
Federal Building & Courthouse
125 Market Street
Youngstown, Ohio 44503

Re: *Feezle v. Norfolk Southern Railway Co.*, No. 4:23-cv-00242
Leadership submission regarding East Palestine Train Derailment

Dear Judge Pearson:

I am honored to submit this correspondence in support of the motion for appointment of interim class counsel and a leadership structure in connection with the Feezle case and the overall litigation regarding the February 3, 2023 Norfolk Southern train derailment in East Palestine, Ohio.

As more fully described below and in the included CV, I have been appointed on numerous occasions to lead sprawling, complex litigation such as this. I have developed a reputation with the plaintiffs' bar, the defense bar, and the judiciary as a tenacious but fair and cordial advocate. If appointed to a leadership position in this litigation, I will bring those traits to bear in this important case.

There are several criteria courts use in decisions to appoint interim class counsel, as discussed in our motion. I will address each of those in turn.

1. Work done investigating potential claims. As is evident from the original complaint and first amended complaint filed in Feezle, I and my co-counsel (Shapero & Roloff, Amato Law Firm) have been investigating potential claims in this matter since the derailment occurred. We opted to join forces because of their subject matter expertise in railroad matters and the local area, coupled with my experience in complex class action and mass tort litigation.

We stand for our clients.

HEADQUARTERS
One Court Street
Alton, IL 62002
TEL: (618) 259-2222
FAX: (618) 259-2251

NEW YORK
112 Madison Avenue
New York, NY 10016
TEL: (212) 784-6400
FAX: (212) 213-5949

CHICAGO
230 W. Monroe
Suite 2221
Chicago, IL 60606
TEL: (312) 759-7500
FAX: (312) 759-7516

SAN FRANCISCO
455 Market
Suite 1150
San Francisco, CA 94105
TEL: (415) 536-3986
FAX: (415) 537-4120

LOS ANGELES
100 N. Sepulveda Blvd.
Suite 1350
El Segundo, CA 90245
TEL: (310) 322-3555
FAX: (310) 322-3655

ST. LOUIS
231 S. Bemiston
Suite 525
St. Louis, MO 63105
TEL: (800) 479-9533



I quickly assembled a team within my firm to assist in these efforts. Jo Anna Pollock is one of my partners who has prior experience in environmental class action litigation. Ms. Pollock has been in East Palestine for most of the last month meeting with area residents and investigating matters related to their potential claims, including participating in inspections of the derailed cars and conducting water, soil, and air sampling with the consulting experts she retained to assist in this case. She was also part of the discussion with counsel for Norfolk Southern regarding inspection and testing protocols.

I also enlisted the assistance of another SHC partner, Gary DiMuzio. Mr. DiMuzio has twenty-plus years of experience in environmental litigation and toxic torts related to hazardous chemical exposures. He also spent several days in East Palestine meeting with area residents and observing testing, and has focused his efforts on investigating the specific risks associated with the materials released following the derailment. His prior litigation experience includes analysis of exposure pathways by modeling air and soil/hydrology plumes.

SHC's co-counsel, Shapero & Roloff, collectively have decades of experience in railroad litigation matters. Neal Shapero and Andrew Thompson are located in Cleveland, Ohio and both are members of the Academy of Rail Labor Attorneys. They have litigated safety cases on behalf of railroad employees in Ohio, Pennsylvania, and several other states. They have focused on the cause of the derailment and identifying relevant safety and regulatory standards that may be implicated in this litigation.

2. Prior experience with class actions/complex litigation. I have extensive experience with complex litigation over more than two decades and have served in leadership roles in numerous MDL proceedings covering a wide variety of subject areas.

My most significant MDL experience is my role in MDL 2804, *In re: National Prescription Opiate Litigation*. I was appointed to serve as one of three Co-Lead Counsels in that MDL following the untimely passing of my law partner, Paul Hanly, Jr. Prior to my appointment as Co-Lead Counsel, I was involved in all aspects of that MDL from its inception, including discovery matters, settlement negotiations, and trial preparation.

In connection with the *National Prescription Opiate Litigation*, I was lead trial counsel in state court in Suffolk County, New York in a seven-month jury trial. That trial led to settlements with various pharmaceutical distributors, manufacturers, and pharmacies and the first jury verdict against Teva Pharmaceuticals, one of the largest generic pharmaceutical manufacturers in the world. I also participated in the extensive negotiations that led to the groundbreaking, multi-billion dollar settlements in that litigation with opioid distributors, manufacturers, and the national chain pharmacies.



I was also appointed to the Plaintiffs' Steering Committee in MDL 2672, *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation* (N.D. Cal.) Other MDL appointments include serving on the Plaintiffs' Executive Committee ("PEC") in MDL 2244, *In re: DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation* (N.D. Tex.); on the Plaintiffs' Executive Committee in MDL 2591, *In re Syngenta AG MIR162 Corn Litigation* (D. Kan.); and on the PSC in MDL 2299, *In re Actos Products Liability Litigation* (W.D. La.). A list of my career MDL appointments are included in my CV, which attached to this letter.

3. Knowledge of the applicable law. As discussed, I have significant experience in class action and mass tort matters. In connection with the opioid litigation discussed above, I was appointed as class counsel in a novel "settlement class" that I proposed and which was approved by Judge Polster. My firm has also handled and is presently involved in numerous other class action matters, including a wide variety of consumer-related class actions as well as privacy class actions against a number of technology defendants.

4. Resources committed to the litigation. My firm, Simmons Hanly Conroy, was created by the merger of New York-based Hanly Conroy with the Illinois-based Simmons Browder Gianaris Angelides & Barnerd LLC. SHC brings unparalleled depth, experience, and resources to this case, both in terms of personnel and substantial financial resources. With approximately 80 lawyers and total staff of more than 225, the firm has offices on both coasts as well as in the Midwest where it is headquartered. The firm handles cases only on a contingent-fee basis, and focuses its practice on asbestos personal injury cases, pharmaceutical and other similar mass torts, consumer fraud class actions, antitrust cases, and other complex plaintiffs' side litigation. In addition to myself, other lawyers at SHC have substantial experience, including leadership experience, in complex multidistrict litigations, allowing for depth in staffing as needed. SHC is both willing and able to devote the necessary personnel and substantial financial resources necessary to prosecute this case.

5. Other considerations. In addition to the cases discussed above, I was also counsel for a class of Haitian young men who were victims of sexual abuse. *Gervil St. Louis v. Douglas Perlitz, et al.*, No. 3:13-cv-01132, in the United States District Court for the District of Connecticut (Hon. Robert Chatigny). I and other SHC lawyers fought for years to obtain justice in American courts for those victims.

I believe my frequent appointments to MDL leadership positions is evidence of my reputation among the plaintiffs' bar, and the plaintiffs' MDL bar in particular. I and the members of my firm are well-known and well-respected within the plaintiffs' MDL bar. Further, while litigation is an adversarial process by design, I strongly believe that collaboration with *all* counsel is imperative in any complex litigation where numerous



lawyers are involved on both sides of the litigation. Complex cases require significant court resources to decide substantive matters and those resources should not be wasted addressing minor disputes that can be avoided simply by being reasonable.

If the court wishes to inquire about my work in prior complex matters with other members of the judiciary, I have been involved in MDL matters with the following judges:

- Hon. Charles R. Breyer - *In re: Bextra/Celebrex* (MDL 1699); and *In re: Volkswagen "Clean Diesel"* (MDL 2672). Additionally, Ms. Conroy was a member of the team that tried the City of San Francisco's opioid lawsuit to Judge Breyer. That was a multi-month trial that concluded in July 2022, and Judge Breyer's findings of fact and conclusions of law were filed in August 2022.
- Hon. Ed Kinkeade - Northern District of Texas, Dallas Division -*In re: DePuy Pinnacle Hip Implants* (MDL 2244). In addition to serving on the Plaintiffs' Executive Committee, Ms. Conroy was a member of the team that tried four multi-month bellwether jury trials before Judge Kinkeade in 2014, 2016, and 2017, and started a fifth in early 2019 that settled during trial.
- Hon. John W. Lungstrum - District of Kansas, Kansas City Division - *In re Syngenta AG MIR162 Corn Litigation* (MDL 2591).
- Hon. Dan Aaron Polster - *In re: National Prescription Opiate Litigation* (MDL 2804).

I appreciate the Court's consideration of our motion and my request for appointment as Interim Class Counsel and as Co-Lead Counsel in this important litigation.

Respectfully submitted,



Jayne Conroy

JAYNE CONROY | jconroy@simmonsfirm.com

Attorney with 35 years of experience, representing clients from all 50 states in complex litigation and mass tort actions.

CAREER HIGHLIGHTS

- Appointment as Co-Lead Counsel in the federal opioid MDL, *In re: National Prescription Opiate Litigation*, MDL 2804 (N.D. Ohio), which resulted in billions of dollars in settlements to help communities abate the opioid crisis
- Appointed to more than 15 multidistrict litigation plaintiff leadership positions
- Representation of several thousand victims of September 11, 2001 in a multi-district litigation against the financial sponsors of terrorism and in a separate litigation against the airlines and airport security companies
- Serves as court-appointed leadership on behalf of consumers in cases of national scope including GMO Corn Litigation, Toyota Unintended Acceleration, Pinnacle Hip Implant Injuries, and others.

WORK EXPERIENCE

Simmons Hanly Conroy, LLC Alton, IL/New York, NY
Named Shareholder | July 2014 – present

Hanly Conroy Bierstein Sheridan Fisher & Hayes New York, NY
Co-Founder | 2002 – July 2014

EDUCATION

New England School of Law Juris Doctorate, May 1985

Dartmouth College Bachelor of Arts, May 1980

LITIGATION LEADERSHIP

- *In re: Hair Relaxer Marketing Sales Practice and Products Liability Litigation*, MDL No. 3060 (N.D. Ill.) (Plaintiffs' Executive Committee)
- *In re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, MDL No. 3047 (N.D. Cal.) (Plaintiffs' Steering Committee)
- *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) (Plaintiffs' Co-Lead Counsel)
- *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 (N.D. Cal.) (Plaintiffs' Steering Committee)

LITIGATION LEADERSHIP (cont'd)

- *In re: Syngenta AG MIR162 Corn Litigation*, MDL 2591 (D. Kan.) (Plaintiffs' Executive Committee)
- *In re: Lipitor Products Liability Litigation*, MDL 2502 (D.S.C.) (Plaintiffs' Executive Committee)
- *In re: Zoloft Products Liability Litigation*, MDL 2342 (E.D. Pa.) (Plaintiffs' Steering Committee)
- *In re: Propecia (Finasteride) Product Liability Litigation*, MDL 2331 (E.D.N.Y.) (State/Federal Liaison)
- *In re: Pelvic Repair System Products Liability Litigation*, MDL 2325, 2326 & 2327 (S.D. W. Va.) (Plaintiffs' Steering Committee)
- *In re: Actos Products Liability Litigation*, MDL 2299 (W.D. La.) (Plaintiffs' Steering Committee)
- *In re: DePuy Pinnacle Hip Implant Products Liability Litigation*, MDL 2244 (N.D. Tex.) (Plaintiffs' Executive Committee)
- *In re: DePuy ASR Hip Implant Products Liability Litigation*, MDL 2197 (N.D. Ohio) (Plaintiffs' Steering Committee and Settlement Committee)
- *In re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf Of Mexico, on April 20, 2010 Litigation*, MDL 2179 (E.D. La.) (Environmental Testing Committee)
- *In re: Toyota Motor Corp. Unintended Acceleration Marketing, Sales Practices, and Product Liability Litigation*, MDL 2151 (C.D. Cal.) (Lead Counsel Committee for Economic Loss Claims)
- *In re: Gadolinium-Based Contrast Agents Products Liability Litigation*, MDL 1909 (N.D. Oh.) (Plaintiffs' Steering Committee)
- *In re: Zyprexa Litigation*, MDL 1596 (E.D.N.Y.) (Plaintiffs' Steering Committee in related third-party action)
- *In re: Bextra and Celebrex Products Liability Litigation*, MDL 1699 (N.D. Cal.) (State/Federal Liaison)

COURT & BAR ADMISSIONS

- Massachusetts, 1985
- U.S. District Court, District of Massachusetts, 1986
- U.S. Court of Appeals, First Circuit, 1986

LITIGATION LEADERSHIP (cont'd)

- U.S. District Court, District of Columbia, 1996
- New York, 1996
- U.S. District Court, Southern and Eastern Districts of New York, 1996
- U.S. District Court, District of Columbia and U.S. Court of Federal Claims, 2003

AWARDS

- Elected as a Member of the American Law Institute, 2019.
- Inducted into the National Trial Lawyers Association's "Trial Lawyer Hall of Fame" in 2019.
- American Association for Justice's Lifetime Achievement Award, 2021.
- Elite Women of the Plaintiffs Bar Winner, National Law Journal, 2021.



COLORADO 40 Inverness Drive East Englewood, CO 80112
P: 303.792.5595 F: 303.708.0527

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www.burgsimpson.com

March 14, 2023

Hon. Benita Y. Pearson
Thomas D. Lambros United States Federal
Building and Courthouse
125 Market Street
Youngstown, Ohio 44503-1780

Re: Norfolk Southern East Palestine Train Derailment Cases

Dear Judge Pearson:

Please accept this application for Seth A. Katz's appointment to serve as Co-Lead Counsel and Interim Co-Class Counsel, pursuant to Fed. R. Civ. P. 23(g), in the consolidated litigation relating to the derailment of Norfolk Southern train in East Palestine, Ohio on February 3, 2023.

1. Professional Experience with MDLs and Class Action Litigation:

Mr. Katz has extensive experience in MDL and class action litigation. Mr. Katz was appointed as Co-Lead Counsel in *In re Pradaxa (Dabigatran Etexilate) Products Liability Litigation*, MDL 2385, in the Southern District of Illinois. After 21 months of litigation, the Pradaxa MDL announced a \$650 million settlement program on behalf of approximately 4,000 claimants. Mr. Katz, as one of the primary negotiators of that settlement and as Co-Lead in the MDL, played an active role in settlement administration.

Mr. Katz currently serves on the Plaintiffs' Executive Committee in both *In re Proton Pump Inhibitor Products Liability Litigation*, MDL 2789, and the Coordinated Proceedings in *Gilead Tenofovir Cases*, JCCP No. 5043, pending in California State Court. Both litigations are at the bellwether trial phase of the proceedings.

Michael S. Burg
Peter W. Burg
Scott J. Eldredge
David P. Hersh
Kerry N. Jardine (Ret.)
David K. TeSelle
Seth A. Katz
Stephen J. Burg
Nick D. Fogel
Joshua B. Abromovitz*

Scott A. Ambrose**
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David J. Crough
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Rachel N. Denning**
Jack F. DeGree*
David M. Hill*

Jennifer M. Elias**
Marshall Fogel
Shane C. Fulton
Erica N. Garcia
Peter A. Gibbons*
David C. Harman†
Thomas W. Henderson
Alyssa C. Hill
Lisa R. Marks
Stephan J. Marsh

Jennifer S. Jensen*
Marc C. Johnson
Larry Jones*
Holly Baer Kammerer
Sophia E. Kyziridis†
Matthew W. Langenberg*
Penny J. Manship
Kristi Paschall
Luke T. Pepper‡

Brian K. Matise
Edison P. McDaniels
Michael C. Menghini
Craig S. Nuss
Grace McGregor Osberg
Ryan L. Pardue
Anya L. Pardy*
Kristi Paschall
Luke T. Pepper‡

Mari K. Perczak
Jessica L. Powell*
Jessica Prochaska
Diana A. Sada
Colin M. Simpson*
Paige Singleton
Joseph F. Smith, III
Patrick M. Sweet
Allison P. Takacs*
Leslie A. Tuft

OF COUNSEL
Hon. Alan K. Simpson*
Dale J. Coplan, P.C.

James G. Heckbert

Ronald M. Sandgrund

Jennifer A. Seidman

Curt T. Sullan

IN MEMORIAM

Milward L. Simpson

1897-1993

Joseph J. Branney

1938-2001

Jerry R. Dunn

1935-2019

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*LICENSED only in Colorado and Wyoming *LICENSED only in Colorado and Missouri

March 14, 2023

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In addition to the above leadership appointments, Mr. Katz has worked on many class action cases during his career. Mr. Katz is a member of the firm's Executive Committee and heads Burg Simpson's Mass Tort and Class Action practice group. By way of example, Mr. Katz recently litigated a class action case, *David Bell, individually and on behalf of all others similarly situated, v. The 3M Company, et al.*, 1:16-cv-02351-RBJ, filed in Colorado District Court on behalf of residents who alleged that Aqueous Film Forming Foam (AFFF) used at Peterson Air Force Base as a firefighting suppressant contaminated the groundwater in their communities for decades. The class certification motion was fully briefed before the case was stayed and then transferred to the MDL in the District of South Carolina, *In re Aqueous Film-Forming Foams (AFFF) Products Liability Litigation*, MDL 2873. Mr. Katz also served as Liaison Counsel to the court in a nationwide class action in the United States District Court for the District of Colorado against Western Union stemming from the company's practice as it related to unclaimed funds and failure to provide notice of undelivered wired funds. Mr. Katz was appointed co-class counsel as part of a team at Burg Simpson who prosecuted a class action on behalf of a class of Colorado consumers who purchased and installed defective rubber tubing as part of an in-floor radiant heating system. *Helmer, et al. individually and on behalf of other similarly situated v. Goodyear Tire & Rubber Co.*, 12-cv-00685 (D. Colo.). Dating back to the early 2000's, Mr. Katz was part of a trial team for a class action that was tried to jury verdict against Allstate Insurance Company due to a failure to fully compensate its policyholders in accordance with the terms of its policy in St. Clair County Illinois (*Sims v. Allstate*, 99-1-393-A.)

Mr. Katz thrives in team environment and has played various roles in many multidistrict litigations when others in his firm have been appointed to leadership roles. Examples include:

- *In re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL 2100, (S.D. Ill.) – Burg Simpson Shareholder Michael Burg appointed as Co-Lead Counsel and Mr. Katz served as Chair of the Discovery Committee.
- *In re Gadolinium-Based Contrast Agents Products Liability Litigation*, MDL 1909 (N.D. Ohio) – Burg Simpson Shareholder Peter Burg appointed as Co-Lead Counsel and Mr. Katz served as Co-Chair of the Discovery Committee.
- *In re Ortho Evra Products Liability Litigation*, MDL 1742, (N.D. Ohio) – Burg Simpson Shareholders Michael Burg and Janet Abaray appointed as Co-Lead Counsel and Mr. Katz served as Chair of the Discovery Committee.
- *In re Zyprexa Products Liability Litigation*, MDL 1596, (E.D.N.Y.) – Mr. Katz's then-partner Chris Seeger appointed as Liaison Counsel and Mr. Katz served as Chair of the Discovery Committee.

2. Names and Contact Information of MDL Judges:

Hon. David R. Herndon (Ret.) – Judge Herndon presided over the *In re Pradaxa (Dabigatran Etxilate) Products Liability Litigation*, MDL 2385, litigation. Mr. Katz was appointed by Judge Herndon to serve as Co-Lead Counsel.

Hon. Matthew F. Kennelly – Judge Kennelly presided over the *In re Testosterone Replacement Therapy Products Liability Litigation*, MDL 2545, litigation. Mr. Katz was

March 14, 2023

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appointed by Judge Kennelly to serve on the Plaintiffs' Executive Committee.

Hon. Andrew Y.S. Cheng – Judge Cheng is currently presiding over the *Gilead Tenofovir Cases* (JCCP No. 5043) in the Superior Court of California, San Francisco County. Mr. Katz was appointed by Judge Cheng to serve on the Plaintiffs' Executive Committee and is lead trial **counsel** in the first four bellwether cases to be tried.

3. Willingness and ability to immediate commit to time-consuming litigation:

Mr. Katz's past work experience on numerous class action and MDL cases demonstrates his willingness and ability to commit to time-consuming complex litigation. In addition to Mr. Katz, Burg Simpson has seasoned attorneys experienced in class action and complex litigation dedicated to this litigation. Burg Simpson has had an office in Cincinnati, Ohio, since September 2005. Cincinnati shareholders, Melanie S. Bailey and David C. Harman, as well as the associates in that office, focus their practice on mass tort and class action litigation. Mr. Katz is familiar with the demands of class action and complex litigation, and he can represent to this Court that he and his firm are fully committed to take on the responsibilities of this case. Burg Simpson is a firm of approximately 70 lawyers with offices in 7 states, including Ohio. The firm's shareholders have experience in handling large-scale complex litigation throughout the country, including mass tort, class actions, and environmental and toxic exposures. Mr. Katz will have all of the firm's resources available to assist with the prosecution of this case.

4. Willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel:

As already demonstrated by his work on and following resolution of the motion for temporary restraining order in the *Erdos* case, Mr. Katz is willing and able to work collaboratively and cooperatively with other plaintiffs' counsel and defense counsel. Mr. Katz proactively reached out to plaintiffs' counsel in the *Feezle, Canterbury, Battaglia, and Fisher* cases, to coordinate the efforts of those counsel that had experts in E. Palestine. Mr. Katz also worked cooperatively with Defendants' counsel, Scott Clements and J. Lawson Johnston, to address the immediate issues to allow Plaintiffs' experts to conduct their initial work on site while working within the confines of the requirements imposed by the EPA orders. As a result of such efforts, the parties were able to come to an agreed resolution on Plaintiffs' Motion for Temporary Restraining Order. Additionally, the experts hired by the Burg Simpson and Grant & Eisenhofer team arrived in East Palestine at the beginning of this litigation collecting samples for testing (both in E. Palestine and the surrounding impacted communities as well as at the derailment site) and evaluating the tracks and the remains of the derailed train cars. The data collected and results from the samples collected will be important evidence to all plaintiffs who file claims and to all absent class members. Making this evidence available demonstrates the commitment to collaboration that will make this litigation successful for the residents and businesses who have been impacted by this derailment.

Since resolution of Plaintiffs' Motion for Temporary Restraining Order, Mr. Katz and

Ms. Graham have routinely communicated the status of remediation efforts and sample collection with other plaintiffs' counsel with filed cases, including holding a meeting that was attended by over 60 attorneys. We have formed an email listserv to keep all plaintiffs' counsel informed about the developments in the litigation. Additionally, as new complaints are filed, Mr. Katz and Ms. Graham contact counsel and attempt to coordinate with those attorneys on the relevant issues, including their interest in inclusion in the organization of a structure for plaintiffs' counsel (including their interest in working cooperatively with other counsel), transfer of cases to this Court, and timing of responsive pleadings. Since the entry of the Court's March 8th Order, there have been four additional filings (three are putative class actions) and Mr. Katz has reached out to counsel in the cases to coordinate with them. Three of the four sets of counsel support the proposed *Feezle* Leadership team and have been included in the leadership structure proposed.

Mr. Katz and Ms. Graham, along with Ms. Conroy and Mr. Morgan, also communicate with Norfolk Southern's counsel Mr. Clements on a regular (almost daily) basis to address issues such as expert access to the derailment site, newly filed complaints, status of remediation including lifting Main Tracks 1 and 2, sample collection and coordination with other counsel, as well as the plan for consolidation pursuant to the Court's March 8th Order.

Furthermore, Mr. Katz has worked on other complex cases with many of the law firms and attorneys proposed for leadership in this case. Whether through his appointments to various MDL committees or other litigations in which Mr. Katz as not sought appointment to a committee but rather simply worked on the case to support court-appointed leadership, Mr. Katz knows and has worked closely with most of the firms involved in this litigation. Recently, Mr. Katz worked with several attorneys at Grant & Eisenhofer, P.A. and Morgan & Morgan on class action settlement arising out of a natural gas explosion affecting thousands of residents and business owners in Massachusetts. *In re: Columbia Gas Cases*, No. 1877cv01343G, Essex County Superior Court. The cooperative prosecution by plaintiffs' counsel resulted in a class action settlement of \$143 million.

5. Access to resources available to prosecute this litigation in a timely manner:

In addition to the ability to work closely with other plaintiffs' counsel to prosecute this case, Burg Simpson can dedicate significant resources to the prosecution of this case on behalf of all community members and business owners affected by the fallout from the train derailment. Burg Simpson has both the personnel and financial resources to commit to the long-term success of this litigation.

In addition to Mr. Katz's own leadership appointments, Burg Simpson has numerous other attorneys with leadership experience in both class action and mass tort litigation. Cincinnati shareholder Melanie S. Bailey was appointed class counsel in *Michael Nagy, et al., on behalf of himself and all others similarly situated v. Wal-Mart Stores, Inc.*, Case No. 01-CI-00854, Boyd County Circuit Court, which resulted in a class action settlement of \$19 million in monetary relief for class members who claimed missed rest and work breaks and time spent working off the clock. Cincinnati shareholder David C. Harman was appointed class counsel in *Davis v. World Wide Consulting Services, Inc.*, 1:18-cv-771 (S.D. Ohio), resulting in a settlement

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for class members alleging federal and state wage and hour violations.

Burg Simpson attorneys have served as court-appointed Lead Counsel and Executive Committee positions in several mass tort cases including, *In re Ortho Evra Products Liability Litigation*, MDL 1742, (N.D. Ohio), *In re Gadolinium-Based Contrast Agents Products Liability Litigation*, MDL 1909 (N.D. Ohio), *In re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, MDL 2100, (S.D. Ill.), *In re Heparin Products Liability Litigation*, MDL 1953 (N.D. Ohio), and *In re Depakote Products Liability Litigation* (consolidated proceedings, S.D. of Illinois).

Additionally, Burg Simpson has experience litigating toxic tort cases. Burg Simpson currently represents hundreds of clients in the Camp Lejeune water contamination cases. Attorneys at Burg Simpson have also litigated toxic tort cases relating to issues such as industrial asbestos, underground storage tanks leaking volatile organic compounds, PCB contaminates from a steel mill wastewater, and BTEX contaminants in groundwater.

Burg Simpson associate Luke T. Pepper has extensive experience in railroad litigation and will be working on this case with Mr. Katz and the Burg Simpson team. Through his work representing injured railroad workers, Mr. Pepper has gained knowledge about the operations of the railroad industry and governing regulations and is familiar with the railroad safety rules regarding protection from, the disposal of, and transport of hazardous. His work on prior cases has also involved issues relating to the causes of derailments and the measures recommended by the American Association of Railroads to prevent derailment including car inspection, degree of track gauge, track inspection, hot box detectors, wheel temperature, acoustic bearing detectors, wheel impact detectors, wheel profile detectors, and machine vision systems. He has also deposed retained experts from CTEH, the contractor hired by Norfolk Southern in connection with the East Palestine derailment.

6. Other considerations:

Mr. Katz has worked cooperatively in the past with many of the attorneys in this proposed leadership submission. Mr. Katz's application to serve as Co-Lead Counsel and Interim Co-Class Counsel is supported by the plaintiffs' counsel identified in this leadership submission, which includes over 30 law firms (approximately half of which have offices in Ohio) each of which is committed to the prosecution of this litigation. Furthermore, Mr. Katz strongly supports the application of those attorneys for the appointments listed in this submission. Mr. Katz assures the Court that this litigation and the communities of East Palestine and the impacted surrounding communities will be well served by the attorneys proposed for leadership.

Based on all of the above, it is respectfully submitted that the elements of Fed. R. Civ. P. 23(g) are met and respectfully requested that Mr. Katz be appointed to serve as Co-Lead Counsel

March 14, 2023

Page 6

and Interim Co-Class Counsel, pursuant to Fed. R. Civ. P. 23(g), in the consolidated litigation relating to the derailment of Norfolk Southern train in East Palestine, Ohio on February 3, 2023.

Respectfully submitted,

**BURG SIMPSON
ELDREDGE HERSH & JARDINE, P.C.**



Seth A. Katz

SAK

SETH A. KATZ | skatz@burgsimpson.com
Burg Simpson Eldredge Hersh & Jardine, P.C.
40 Inverness Drive East
Englewood, CO 80112

REPRESENTATIVE CAREER HIGHLIGHTS

- Appointment as Co-Lead Counsel in the *Pradaxa* litigation, MDL 2385, which resulted in a \$650 million settlement program on behalf of approximately 4,000 claimants.
- Representation of a class of thousands of residents and business owners arising out of a natural gas explosion in Massachusetts resulting in a settlement fund of \$143 million within two years of the anniversary of the explosion. *In re: Columbia Gas Cases*, No. 1877cv01343G, Essex County (Massachusetts) Superior Court.
- Appointment to multiple MDL and state court leadership committee positions for pharmaceutical and medical device cases by courts across the country.
- Lead trial counsel in pharmaceutical MDL and/or state court cases.
- As an Assistant District Attorney, successfully prosecuted some of New York City's most violent gangs for crimes ranging from drug offenses to homicide.

WORK EXPERIENCE

Burg Simpson Eldredge Hersh & Jardine, P.C. Englewood, CO
Shareholder | September 2005 – present

Seeger Weiss, LLP New York, NY
Associate/Partner | 1999 – September 2005

LOEB & LOEB LLP NEW YORK, NY
ASSOCIATE | 1997-1999

MELITO & ADOLFSEN, P.C. NEW YORK, NY
ASSOCIATE | 1996 – 1997

OFFICE OF THE DISTRICT ATTORNEY, BRONX COUNTY BRONX COUNTY, NY
ASSISTANT DISTRICT ATTORNEY | 1993 - 1996

EDUCATION

Boston University School of Law Juris Doctorate, May 1993

University of Michigan Bachelor of Arts, May 1990

LITIGATION LEADERSHIP

- *In re Pradaxa (Dabigatran Etexilate) Products Liability Litigation*, MDL 2385, (S.D. Ill.) (court appointed Co-Lead Counsel)
- *In re: Proton Pump Inhibitor Products Liability Litigation*, MDL 2789, (D.N.J.) (court appointed member of Plaintiffs' Executive Committee)
- *In re: Testosterone Replacement Therapy Products Liability Litigation*, MDL 2545, (N.D. Ill.) (court appointed member of Plaintiffs' Executive Committee)
- *Gilead Tenovor Cases*, JCCP No. 504 (California State Court) (court appointed member of Plaintiffs' Executive Committee)
- *In re: DePuy ASR Hip Implant Products Liability Litigation*, MDL 2197 (N.D. Ohio) (court appointed member of Plaintiffs' Steering Committee and Settlement Committee)
- *Tennille, et al., on behalf of themselves and all others similarly situated v. Western Union Co., et al.*, 09-cv-00938 (D. Co.) (court appointed Plaintiffs' Liaison Counsel)
- *Helmer, et al. individually and on behalf of other similarly situated v. Goodyear Tire & Rubber Co.*, 12-cv-00685 (D. Co.) (court appointed co-class counsel)
- *In re New York Bausch & Lomb ReNu with MoistureLoc Products Liability Litigation*, Index No. 766,000/2007 (N.Y. Sup. Ct.) (court appointed member of Plaintiffs' Steering Committee)

COURT & BAR ADMISSIONS

- New York, 1994
- Colorado 2006
- Wyoming 2006
- Arizona 2014
- U.S. District Court, Southern and Eastern Districts of New York, 1997
- U.S. District Court, District of Colorado, 2005
- U.S. District Court, Wyoming, 2007
- U.S. District Court, Western District of New York, 2008
- U.S. District Court, District of Arizona, 2017
- U.S. District Court, District of Columbia, 2023
- U.S. Court of Appeals, 10th Circuit, 2009
- U.S. Supreme Court, 2006

AWARDS

- Inaugural President of The Mass Tort Trial Lawyers Association, 2011 - 2013



2325 3rd Street, Suite 329, San Francisco, CA 94107

tel: 415.229.9720 fax: 415.789.4367

M. Elizabeth Graham
Partner
(302) 622-7099
(415) 710-7973
egraham@gelaw.com

123 Justison Street
7th Floor
Wilmington, DE 19801
tel: 302.622.7000
fax: 302.622.7100

485 Lexington Avenue
29th Floor
New York, NY 10017
tel: 646.722.8500
fax: 646.722.8501

30 N. LaSalle Street
Suite 2350
Chicago, IL 60602
tel: 312.610.5350
fax: 312.214.0001

www.gelaw.com

March 14, 2023

Honorable Benita Y. Pearson
313 Thomas D. Lambros United States Federal Building and Courthouse
125 Market Street
Youngstown, Ohio 44503-1780

Re: In re Norfolk Southern East Palestine Train Derailment Cases

Dear Judge Pearson,

Pursuant to this Court's Minute Order dated March 8, 2023, please accept this letter application of M. Elizabeth ("Beth") Graham, a partner at the firm of Grant & Eisenhofer, PA, for appointment as Interim Class Counsel and as a Co-Lead in leadership of the cases before this Court involving the Norfolk Southern Train Derailment.

Ms. Graham has led the Complex & Mass Tort Litigation Practice at Grant & Eisenhofer for almost a decade and has practiced law in this area for over thirty years. She is a member of her firm's Executive and Management Committees and has experience in national environmental and mass tort litigation. Most recently she was one of the chief architects of the \$143 million class settlement in the *Columbia Gas Explosion* cases, and a principal negotiator of the *Essure Product Liability* settlement against Bayer, that resulted in the distribution of some \$1.6 billion to injured women. Prior to her representation of plaintiffs for over the past two decades, Ms. Graham was a member of large national law firms that represented clients defending themselves in the same type of complex environmental and class action matters.

Ms. Graham's decades of experience in numerous complex and coordinated litigations, including leadership at the highest level in federal MDLs and state coordinated proceedings, make her ideally suited for a Co-Lead role before this Court. Moreover, Ms. Graham's work

from the outset in the *Erdos* class action evidences not only her legal skills, but her commitment and ability to lead, to build consensus among plaintiffs' counsel while working collaboratively with counsel for Norfolk Southern.

In addition to the personal dedication and leadership that Ms. Graham brings to this litigation, Grant & Eisenhofer is a nationally recognized leader in complex class action litigation and possesses the significant resources and staffing that undoubtedly will be required in a litigation of this magnitude. Ms. Graham and her partner, Mr. Adam Gomez, have already assembled a team of attorneys and paralegals to manage this litigation, and have been working nearly full-time on it since February.

As set forth in the accompanying Motion to Appoint Interim Class Counsel and Plaintiffs' Leadership Structure, the factors set forth in Rule 23(g)(1) for the appointment of interim class counsel, and the guidelines for appointment of a Co-Lead found in the Manual for Complex Litigation 4th, illustrate Ms. Graham's suitability as class counsel and for an appointment to leadership as a Co-Lead. Those factors include:

1. The work counsel has done in identifying or investigating potential claims in the action;
2. counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
3. counsel's knowledge of the applicable law;
4. the resources that counsel will commit to representing the class; and
5. any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class.

1. Work Performed to Date: From the day of the derailment, Ms. Graham quickly worked to assemble her team to investigate the potential claims and the harm that occurred because of the derailment. Immediate dispatch to the community with experts to assess the scope of the class parameters, the extent of the toxic contamination, and the cause of the derailment was accomplished under Ms. Graham's direction. She and her team immediately began drafting the appropriate causes of action and updated their knowledge of the law underpinning each.

Ms. Graham and her team hired renowned experts across the relevant disciplines that are expected to be involved in this case, including: two leading Occupational & Environmental Health Services experts with experience in medical monitoring protocols and long-term health effects of the chemicals involved in this case; an expert in Meteorology to define the scope of the air contamination; two of the region's top Railroad experts; a HazMat expert; an Ohio accredited soil testing Lab and analysts; a Hydrogeologist; and a consulting firm experienced in Economic Damage modeling in contaminated property damage cases like this one. G&E lawyers personally spent weeks at the site investigating and working with these experts and continue to do so now. Together with counsel at Lieff Cabraser, Ms. Graham and her firm currently are coordinating with scientists and researchers who are committed to establishing a pilot study for acute exposures and injuries in and around the East Palestine area.

Working with her co-counsel Mr. Seth Katz and his partners, Ms. Graham drafted the TRO application to prevent the destruction of key evidence in less than 24 hours after receipt of Norfolk Southern's letter expressing its intent to destroy evidence and appeared before this Honorable Court on several occasions to address critical issues early. At the outset, Ms. Graham immediately contacted the lawyers with filed cases, with an eye towards developing a robust and inclusive leadership group of individuals that can cooperate and work together.

Her team, together with counsel in the *Feezel* and *Canterbury* cases, Ms. Jayne Conroy and Mr. Michael Morgan, respectively, have spent days educating and coordinating with counsel from across the country to build consensus for protocols that the *Feezel* Leadership team is developing. She organized the first all-counsel meeting among plaintiffs, with some 65 lawyers in attendance. And importantly, Ms. Graham has established a positive working relationship with defense counsel and has established that she can reach resolution of disputed issues quickly. At present, Ms. Graham continues to work directly with Norfolk Southern counsel to establish a plan for consolidated pleadings and discovery, working in union with the other proposed *Feezel* Leadership team Co-Leads.

2. Experience & Legal Knowledge: As mentioned, Ms. Graham's practice has been focused on complex class actions and mass litigation since her admission to practice in 1989, first as defense counsel and then as a plaintiff's attorney. She has been counsel on environmental class actions involving VOC contamination in the air and water in Silicon Valley; a railroad car spill involving oleum and sulphuric acid in Richmond, CA; radon contamination from products used in the foundations of homes in Guernsey County, Ohio; arsenic contamination in the soil and water in Sutter County, CA; rocket fuel in drinking water in San Martin, CA; and more recently ethylene oxide air contamination litigation in New Castle, Delaware and West Virginia.

In addition to environmental cases, Ms. Graham has developed a deep knowledge of class action jurisprudence, and mechanisms for handling mass tort cases involving a variety of disputes. She has been involved in some of the largest cases in the country, and often is called to lecture on her experience in complex case management and resolution. In her first MDL as a plaintiffs' lawyer, MDL 1069, she was appointed as Class Counsel and a member of the Plaintiffs' Executive Committee (*In re American Honda Motor Co., Inc. Dealerships Relations Litigation* (MDL No. 1069)). She was one of the lead negotiators of the \$379 million settlement achieved there. Most recently, Ms. Graham served as Class Counsel and a lead negotiator in *In re Columbia Gas Explosion Cases* (Mass. Sup. Ct.), and as an Executive Committee member and a Lead/Liaison in *In re Essure Product Cases* (California JCCP 4887). A representative list of Ms. Graham's recent MDL appointments are included in her CV, which is attached hereto.

3. Resources & Commitment : Ms. Graham has demonstrated her willingness and ability to commit to time-consuming complex litigations as evidenced by her work in the multi-district and coordinated litigation throughout her career. Her firm, Grant & Eisenhofer, has been a pacesetter in class and mass actions. Its practice groups in securities and corporate governance, environmental, mass torts, antitrust, civil rights, bankruptcy, birth injury, Child Victims' Act, sexual assault, and consumer protection litigation are among the most prominent in the plaintiffs'

bar. The firm represents Attorneys General and state agencies nationwide in hazardous site litigation arising out of historic disposal practices and emissions of contaminants such as PCBs, PFAS, lead and arsenic. With its focus on promoting its clients' priorities, the Firm founded a non-profit organization that harnesses its members' legal skills to pursue significant ESG goals. Dedicated to these values, G&E has worked to protect the rights of states and municipalities suffering lasting damage from toxic environmental harms; consumers injured by faulty manufacturing and other corporate wrongdoing; and patients harmed by pharmaceutical and health care product companies' defective drugs and medical devices, to name just a few. G&E has extensive trial, arbitration, and settlement negotiation experience, with victories that include some of the largest class and group action recoveries in history, both in the U.S. and abroad.

With approximately 70 lawyers and total staff of 150, the firm has offices on both coasts and in the Midwest. Ms. Graham is on her firm's Executive Committee and one of four members of the Management Committee. She stands behind her firm's commitment of personnel and significant financial resources to this case.

Specific to this case, Ms. Graham has marshalled a talented team of lawyers internally, including her partner Mr. Adam Gomez, attorneys Mr. Tudor Farcas, Ms. Caley DeGroote, and Mr. Adam Stoltz, experienced paralegals and case support staff. Each brings a set of skills specifically relevant to this litigation. Ms. Graham's firm has already established an office in Cranberry Township to facilitate ongoing local work by her and this team.

Ms. Graham's partner, Adam Gomez, has been working in East Palestine since the week of the derailment. He personally has been present there with experts and has been coordinating experts and other counsel at the site while overseeing testing and inspection. Like Ms. Graham, his practice focuses on complex environmental litigation, pharmaceutical, medical device, and class action litigation. Prior to joining G&E, Mr. Gomez was an attorney at a national defense litigation firm where he defended clients in high stakes litigation.

Representing residents and businesses harmed by the catastrophic gas explosions in Merrimack Valley, Massachusetts, Mr. Gomez served as Chair of the Insurance Committee. He also was responsible for developing and working with experts in that case, which were critical to resolution. Mr. Gomez serves as a Chair of the Discovery Committee in the *Gilead Tenofovir Cases*, California Judicial Council Coordinated Proceeding (JCCP) No. 5043, is the Co-Chair of the American Association for Justice Tenofovir Litigation Group, and is counsel to victims of the Paradise, California Camp Fire—the deadliest in the state's history—where plaintiffs alleged that fires were sparked by aging, unsafe electrical infrastructure maintained by Pacific Gas & Electric. Mr. Gomez is a member of the Hispanic Bar Association of Pennsylvania, the Philadelphia Trial Lawyers Association and American Association for Justice. Mr. Gomez has been selected for inclusion in the list of "Rising Stars" in Pennsylvania *Super Lawyers*.

5. Other Considerations:

Ms. Graham's reputation among plaintiffs' counsel is evidenced here by the support from other prominent lawyers involved in these cases, and in particular the attorneys from preeminent

firms who are proposed for leadership positions in the *Feezel* Leadership Group. Ms. Graham knows many of these lawyers and law firms well, has worked with many of them in prior and current litigations; she can assure the Court that this case would be well-served by those proposed appointments.

In addition, as a former attorney and partner at large defense firms, Ms. Graham strongly believes that zealous representation requires cooperative and professionally collegial relationships with *all* counsel. Her ability to build consensus and unity among all stakeholders has already been demonstrated in this matter. Ms. Graham's ability to work with her adversaries is clear, as evidenced by her resolution of early critical issues by agreement with counsel for Norfolk Southern, and the continuing cooperation that helps resolves issues that pop up daily. If appointed as a Co-Lead, Ms. Graham will continue to endeavor to reach agreement among *all* parties whenever possible, to conserve resources for disputes that truly must be brought to Court. Given the competing concerns among different segments of the affected population, Ms. Graham believes these skills will well serve this litigation.

Based upon the foregoing, Ms. Graham respectfully requests an appointment to leadership to serve as a Co-Lead of the litigation and as Interim Class Counsel, as set forth in the *Feezel* Motion papers.

Respectfully,



M. Elizabeth Graham
Grant & Eisenhofer, P.A.



M. ELIZABETH (“BETH”) GRAHAM | egraham@gelaw.com

Plaintiffs’ attorney with over 30 years of experience in complex litigation, spanning environmental, toxic tort, medical products, consumer fraud, product liability, and business tort claims.

LEADERSHIP AND CAREER HIGHLIGHTS

- Co-Lead Class Counsel in the *In re Columbia Gas Explosion Cases* (Mass. Sup. Ct.) and a principal negotiator of the \$143 million class action settlement
- Lead Liaison Counsel, a member of the Executive Committee, Chair of the Law & Briefing Committee, and a lead negotiator in the *In re Essure Product Cases* (California JCCP 4887) settlement, which provided \$1.6 billion in overall compensation to injured women
- Court-Appointed Co-Lead of the Settlement Committee and lead negotiator *In re Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation* (MDL No. 2775)
- Plaintiffs’ Steering Committee member in *In re Smith & Nephew Birmingham Hip Resurfacing (BHR) Hip Implant Products Liability Litigation* (MDL No. 2775)
- Lead Liaison Counsel in California’s *In re Gilead Tenofovir Cases and Coordinated Actions*, JCCP No. 5043, involving some 24,000 plaintiffs with claims against California biotech giant Gilead Science
- Co-Lead on the Plaintiffs’ Executive Committee and as Chair of the Law & Briefing Committee in *In re Zofran (Ondansetron) Products Liability Litigation* (MDL No. 2657)
- Plaintiffs’ Steering Committee member in *In re Power Morcellator Products Liability Litigation* (MDL No. 2652)
- Plaintiffs’ Steering Committee member in *In re Stryker LFIT V40 Femoral Head Products Liability Litigation* (MDL No. 2768)
- Co-Chair of the Law & Briefing Committee for *In re Xarelto Products Liability Litigation* (MDL No. 2592)
- Co-Lead Class Counsel, Co-Lead on the Plaintiffs’ Executive Committee and Lead Negotiator in *In re American Honda Motor Co., Inc. Dealerships Relations Litigation* (MDL No. 1069), resulting in \$380 million settlement for the class of dealerships
- Represented hundreds of families injured by environmental contaminants, including radon, arsenic and rocket fuel, resulting in verdict and confidential settlements in excess of \$25 million
- Represented founding member of Tinder Rosette Pambakian in sexual assault case against Match Group, Inc. resulting in confidential multimillion dollar settlement
- Represents child victims of sexual assault committed by clergy members
- Previously represented businesses in environmental litigation as defense counsel at prominent national firm

RELEVANT LEGAL EXPERIENCE

Grant & Eisenhofer P.A. Principal/ Chair of Complex & Mass Tort Litigation July 2014 – present	Wilmington, DE / San Francisco, CA
Rapazzini & Graham, LLC Partner & Owner August 1996 – 1998; April 2000 -January 2010	San Francisco, CA
Duane Morris Partner October 1998 – April 2000	San Francisco, CA
Alexander, Rapazzini & Graham Partner June 1994 – July 1996	San Francisco, CA
Brobeck, Phleger & Harrison Attorney September 1989 – June 1994	San Francisco, CA

EDUCATION

St. John's University School of Law, St. Thomas More Scholar	Juris Doctorate, 1989
St. John's University	Bachelor of Arts, 1987

ADMISSIONS

- United States Supreme Court
- U.S. Court of Appeals for the 1st Circuit
- U.S. Court of Appeals for the 4th Circuit
- U.S. Court of Appeals for the 5th Circuit
- U.S. Court of Appeals for the 9th Circuit
- U.S. District Court for the Central District of CA
- U.S. District Court for the Eastern District of CA
- U.S. District Court for the Northern District of CA
- U.S. District Court for the Southern District of CA
- California

SELECT PUBLICATIONS

- “Overcome the Clear Evidence Defense,” *Trial* (July 2016)

- “Medical Monitoring” *Trial* (July 2018)

SELECT AWARDS & APPOINTMENTS

- Named to the 2023 list of LawDragon’s 500 Leading Lawyers in America
- Named to Law360’s annual “Titans of the Plaintiffs Bar” (2021)
- Charter Member, Lawyers of Distinction
- National Trial Lawyers, Top 100
- Lifetime Achievement, America’s Top 100 Attorneys® (2018)
- Editorial Board, Law360
- AAJ Publications Committee Member (2016-present)
- Board Member, State Bar, California Young Lawyers Division (1990-1993)

REFERENCES AVAILABLE UPON REQUEST

MORGAN & MORGAN
COMPLEX LITIGATION GROUP
Mass Torts | Whistleblower | Class Action

T. Michael Morgan
mmorgan@forthepeople.com
Phone: (407) 236-5998

20 N. Orange Ave., Suite 1600
Orlando, FL 32801

Filed Via CM/ECF

March 15, 2023

Hon. Benita Y. Pearson
United States District Judge
313 Thomas D. Lambros United States Federal Building and Courthouse
125 Market Street
Youngstown, Ohio 44503-7435

Re: East Palestine Train Derailment Litigation

Dear Judge Pearson,

Pursuant to this Court's Order dated March 8, 2023 (4:23-cv-0242 ECF 20), I respectfully submit this letter application to serve as co-lead counsel in non-class cases in the East Palestine train derailment litigation.

1. Relevant Professional Experience:

I respectfully submit that my firm and I are suited for Your Honor's consideration for this immensely important role. I am unflinchingly committed to having the highest level of dedication to representing the untold thousands impacted by this terrible event, should the Court accord me the privilege of serving as co-lead counsel here. I believe the following summary of my credentials and my firm's experience and resources will allow me to serve the plaintiffs and this Court in the manner required in such an important litigation.

I am a Board-Certified Civil Trial Attorney¹ and partner at Morgan & Morgan, one of the nation's prominent plaintiffs' firms. I chair the Morgan & Morgan Complex Litigation Group, which handles a wide array of class action, mass tort, environmental, and product liability matters. Under my leadership, Morgan & Morgan has litigated some of the largest class and mass tort actions in the country. Under my leadership, Morgan & Morgan Complex Litigation Group partners have held roles in many class actions and mass tort actions, including litigation surrounding the national opioid litigation, the Capital One data breach litigation (MDL 2915; E.D. Va.), JUUL vaping products (MDL 2913; N.D. Cal.), PFAS-containing aqueous film forming foams (MDL

¹ This is the highest distinction a trial attorney can attain in the State of Florida and is reserved for those lawyers recognized as "experts" in all aspects of civil trial practice. Less than 1% of Florida Bar Members are Board Certified in Civil Trial Law. I am humbly one of the youngest attorneys in Florida history to attain this distinction.

Hon. Benita Y. Pearson
March 15, 2023
Page 2

2873; D. S.C.), and pharmaceutical litigation including Elmiron (MDL 2973; D. NJ.), Proton-Pump Inhibitors (MDL 2789; D. N.J.), and Gardasil (MDL 3036; W.D. N.C.).

Within the Complex Litigation Group, I am honored to have 150 attorneys, dedicated professionals who support the firm's litigation leadership efforts as trial counsel, law and briefing, offensive and defensive discovery, document review and analysis, expert and science development, and any other area where attorney work product is needed.

Morgan & Morgan was a member of the Plaintiff's Steering Committee for the BP Oil spill litigation and was selected as lead trial counsel for the second trial. Recently, I have worked with partners leading the litigation in Porter Ranch, California, where a local community was exposed to toxic substances because of a gas company's failure to properly maintain its facilities. The case involved both mass tort and class claims, resulting in a nearly two-billion-dollar settlement for the affected community. The case required careful balancing of the class and individual plaintiffs' interests—a balance that will be important in this case, as many individuals have retained personal counsel. Morgan & Morgan is also lead trial counsel for the first bellwether case in the *In re Aqueous Film Forming Foams* MDL, which involves pollution of drinking water by chemical companies with cancer-causing toxins.

I am currently part of the lead team in the litigation involving the Tangelo Park Neighborhood in Orlando, Florida. The neighborhood is adjacent to the Lockheed Martin missile plant. The litigation is focused on the alleged offsite exposure of the local community to a host of volatile organic compounds and other constituents of concern. The case, currently pending in the Middle District of Florida, deals with many of the specialties that will be critical in the prosecution of this case including toxicology, fate and transport dispersion models of both air and hydrogeology, and medical experts addressing general and specific causation of end points related to the constituents of concern.

2. Names and Contact Information of Judges:

I have a history of working with numerous judges to bring complex matters to resolution, including, by way of example:

Roy B. Dalton, Jr.
Senior District Court Judge for the Middle District of Florida, Orlando Division
George C. Young Federal Annex Courthouse, Room 4-750
401 West Central Boulevard
Orlando, Florida 32801
chambers_flmd_dalton@flmd.uscourts.gov
Courtroom Deputy Ann Lindstrand: (407) 835-4202

I have appeared before Judge Dalton on numerous occasions, having litigated ongoing environmental contamination cases in his Court. See *Grayson v. Lockheed Martin Corp.*, Case No. 6:20-cv-1770; *Henderson v. Lockheed Martin Corp.*, 6:21-cv-1363; *Davis v. Lockheed Martin Corp.*, 6:22-cv-81.

Hon. Benita Y. Pearson
March 15, 2023
Page 3

3. Willingness and Ability to Immediately Commit to Time-Consuming Litigation:

If selected, I will dedicate the time necessary to manage this litigation and participate in all matters, including fact discovery, expert selection and discovery, motion practice, trial, and settlement negotiations. I fully appreciate the gravity of stating my full commitment of my time, energy, and resources to this matter as co-lead counsel and, if appointed, will discharge my duties accordingly.

4. Willingness and Ability to Work Cooperatively with other Plaintiffs' Counsel and Defense Counsel:

I, along with the rest of my firm, have a history of working collaboratively with other firms in class actions and MDLs—including the opioid litigation, PFAS litigation, and gas explosion cases—to provide the best results for all plaintiffs. Specifically, Morgan & Morgan has previously worked with co-counsel in this litigation on the Merrimack Valley gas explosion litigation in Massachusetts. I and the other highly skilled attorneys in Morgan & Morgan's Complex Litigation Group are supported by state-of-the-art technology, including Slack, Relativity, Teams, and Litify, which empowers the team members to take a true collaborative approach internally and with other firms, regardless of physical location. I also understand the value of working in a cooperative albeit adverse manner with opposing counsel through setting, with input of the Court where necessary, discovery and case management timelines and meeting and conferring in a professional and forthright manner. However, I will make every effort to avoid burdening the Court with disputes that can be resolved without Court intervention.

5. Access to Resources Available to Prosecute this Litigation in a Timely Manner:

As the partner in charge of the Complex Litigation Group, I have the unique ability to ensure that the plaintiffs in this matter have access to all necessary resources, including the financial resources necessary to fund this case. In addition to drawing on the 150 attorneys mentioned above, the firm's Complex Litigation Group also draws on the expertise of dozens of paralegals, along with a retired FBI special agent and a retired HHS-OIG special agent. While primarily based in Florida, Complex Litigation Group attorneys and support staff are in Ohio, Pennsylvania, Kentucky, West Virginia, Michigan, New York, Louisiana, Montana, California, Alabama, Texas, Vermont, and Connecticut. The attorneys who make up this group have impressive diverse backgrounds including litigators from top 50 defense firms, senior government counselors, elected officials, and named partners from highly successful plaintiff firms. In addition to other team members, if appointed, I will enlist the assistance of Frank Petosa and Rene Rocha, two of my partners who are thoroughly experienced in complex environmental and toxic tort litigation. Both Mr. Petosa and Mr. Rocha served in leadership in the BP oil spill litigation and have held leadership positions in several other complex environmental cases.

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6. Willingness to Serve as Lead Counsel, a Member of a Steering Committee, or Both:

Although I am honored by the Court's consideration for any role the Court may consider for me, I believe that the most appropriate role in this litigation is Plaintiffs' co-lead in non-class cases; my firm represents many plaintiffs and potential plaintiffs who have been affected by the derailment. Specifically, Morgan & Morgan represents hundreds of individuals, along with multiple municipalities and businesses, and has been contacted for representation by thousands more whose cases are in the initial investigation stage. I believe that the number of clients we represent and the resources we bring to this effort uniquely qualify me to apply for a position as co-lead counsel.

7. Other Considerations:

My team has already dedicated significant time, effort, and resources to conducting legal and factual research in representation of Morgan & Morgan's clients in this litigation. Since February 3, 2023, Morgan & Morgan has been *on the ground* actively working with co-counsel to secure the initial evidence necessary to prosecute this case. We have had team members actively investigating the impacts of the derailment, along with teams of experts. These attorneys and experts have collected important data for several weeks and have actively coordinated with other Plaintiffs' counsel involved in similar activities. Based on our consultation and coordination with other Plaintiffs' counsel, we were able to ensure that our experts mobilized equipment on short notice and obtained data that other teams were unable to. Additionally, one of our attorneys was invited to a Pennsylvania Senate Committee hearing regarding the impacts of the derailment and provided testimony to the Senate and the affected community regarding this disaster.

Lastly, on February 15, 2023, Morgan & Morgan filed a class action complaint on behalf of plaintiffs in Ohio and Pennsylvania in relation to the East Palestine derailment. *See Canterbury, et al. v. Norfolk Southern Corp., et al.*, 4:23-cv-00298 (N.D. Ohio).

My team and I are fully dedicated to obtaining a just and meaningful result for the people of East Palestine.

Respectfully submitted,

Mike Morgan

T. Michael Morgan

T. MICHAEL MORGAN | mmorgan@forthepeople.com

Board Certified Civil Trial Attorney, representing clients in complex litigation and mass tort actions.

WORK EXPERIENCE

- Morgan & Morgan, P.A., Partner | January 2009 – present | Orlando, FL
 - Morgan & Morgan Complex Litigation, Department Head | 2018 – present | Orlando, FL

EDUCATION

- University of Florida, College of Law Juris Doctorate, May 2008
 - University of Florida Bachelor of Arts, May 2005

COURT & BAR ADMISSIONS

- Florida, 2009
 - U.S. District Court, Northern District of Florida, 2019
 - U.S. District Court, Middle District of Florida, 2010
 - U.S. District Court, Southern District of Florida, 2018
 - Kentucky, 2012
 - U.S. District Court, Eastern District of Kentucky, 2015

REPRESENTATIVE EXPERIENCE

- *In re: Lockheed Martin Corporation Toxic Air Pollution Litigation* (M.D. Florida) (Plaintiffs' Lead Counsel).
 - *Sommerville v. Union Carbide Corp.*, 2:19-cv-00878 (S.D. West Virginia) (involving ethylene oxide exposure); *Letart v. Union Carbide Corp.*, 2:19-cv-00877 (S.D. West Virginia) (same).
 - Coordination of firm's efforts: *In re: Round Up Products Liability Litigation*, MDL No. 2741 (N.D. California); *In re: JUUL Personal Injury Product Liability Litigation*, MDL No. 2913 (N.D. California); *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio); *In re: Ethicon, Inc. Pehiv Repair System Products Liability Litigation*, MDL No. 02327 (S.D. West Virginia); *In re: Social Media Adolescent Addiction/Personal Injury Product Liability Litigation*, MDL No. 3047 (N.D. California).
 - Management and building of Morgan & Morgan's Complex Litigation Department encompassing more than 100 attorneys. Experience in both building teams and efficiently deploying resources throughout the country.
 - Founder of Morgan & Morgan Kentucky.

REFERENCES

- Paul G. Byron, District Court Judge for the Middle District of Florida, Orlando Division, George C. Young Federal Annex Courthouse, Room 4-650, 401 West Central Boulevard, Orlando, Florida 32801, Courtroom Deputy Grace Farey: (407) 835-4219
 - Roy B. Dalton, Jr., Senior District Court Judge for the Middle District of Florida, Orlando Division, George C. Young Federal Annex Courthouse, Room 4-750, 401 West Central Boulevard, Orlando, Florida 32801, chambers_flmd_dalton@flmd.uscourts.gov, Courtroom Deputy Ann Lindstrand: (407) 835-4202



Lieff Cabraser Heimann & Bernstein, LLP
222 2nd Avenue South, Suite 1640
Nashville, TN 37201-2379
t 615.313.9000
f 615.313.9965

March 15, 2023

Mark P. Chalos
Partner
mchalos@lchb.com

Judge Benita Y. Pearson
313 Thomas D. Lambros United States Federal Building and Courthouse
125 Market Street
Youngstown, Ohio 44503-1780

RE: *Feezle v. Norfolk Southern Railway Co, et al,*
Case no. 4:23-CV-0242 (N.D. Ohio)

Dear Judge Pearson:

Pursuant to this Court's order dated March 8, 2023 (ECF No. 36) in the above-referenced case, please accept this letter application of Mark P. Chalos of the firm Lieff, Cabraser, Heimann & Bernstein ("LCHB"), for Plaintiffs Executive Committee in the Norfolk Southern Railway Co. East Palestine, Ohio, Train Derailment Litigation. As described below, Mr. Chalos is well qualified to serve this Court in light of his significant experience in numerous other MDLs and class actions, as well as his continued selection by federal courts to fulfill leadership roles in those cases. In addition, LCHB can and will bring the necessary resources to a case that will likely be both complicated and expensive to litigate.

Courts may consider the below criteria in reviewing leadership applications. Each is addressed in turn.

1. Professional Experience with MDLs: Mr. Chalos has extensive experience managing complex litigation over more than two decades. In addition to his work in this district on various aspects of *In re National Prescription Opiate Litigation* (MDL 2804), including leading teams developing the claims against manufacturers and retailers, Mr. Chalos has also served on the trial team that recently tried a remanded opioids MDL bellwether trial of public nuisance claims on behalf of the City of San Francisco. The multi-month bench trial in the Northern District of California resulted in a verdict in favor of his client. Mr. Chalos also served as Co-Lead MDL Counsel and Co-Lead Trial Counsel in a consumer class action that was tried to a jury verdict in this district (*In re Whirlpool Front Loading Washer Products Liability Litigation*, MDL 2001 (N.D. Ohio)).

In addition to his leadership appointments in MDLs and other complex litigations listed below, Mr. Chalos has extensive experience in prosecuting environmental contamination lawsuits, including being appointed Co-Lead Counsel in consolidated class action litigation regarding lead contamination of Benton Harbor, Michigan's municipal water system (*Braziel, et al. v. Michigan Department of Environment, Great Lakes, and Energy*, case no. 22-000046-

Judge Benita Y. Pearson
March 15, 2023
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MM (Michigan Court of Claims)). Mr. Chalos also represents community members in Jackson, Mississippi, in a federal class action asserting claims against public officials and private companies for exposing residents to contaminated drinking water. *Sterling v. City of Jackson, Mississippi*, case no. 3:22-cv-531-KHJ-MTP (S.D.Miss). Mr. Chalos previously represented community members in East Tennessee in federal lawsuit against Tennessee Valley Authority arising from coal ash spill that contaminated waterways and adjacent properties with heavy metals and other poisons (*Kingston, Tennessee TVA Coal Ash Spill Litig.*, No. 3:09-cv-09 (E.D.Tenn.).

Mr. Chalos has been appointed to leadership roles in numerous complex civil proceedings, including: Co-Lead MDL Counsel, *In re Evenflo Co., Inc. Marketing, Sales Practices and Products Liability Litigation* (child booster seats), MDL 2938 (D. Mass); Co-Lead Interim Class Counsel, *Miller v. Ford* (engine failures), Case No. 2:20-cv-01796 (E.D. Ca); Co-Lead Class Counsel, *Weidman v. Ford* (brake failures), Case No. 2:18-cv-12719 (E.D. MI); Co-Lead Class Counsel, *Alger v. FCA US, LLC* (exploding headrests), Case No. 2:18-CV-00360 (E.D. Ca); Plaintiffs Executive Committee, *Murphy v. Graco Children's Products* (child booster seats), Case No. 1:20-CV-03030-LMM (N.D. Ga.); Chair of MDL Expert Committee, *In re General Motors Air Conditioning Marketing and Sales Practices Litigation* (faulty AC systems in vehicles), MDL 2818 (E.D. MI); Plaintiffs Steering Committee, *In re Exactech Polyethylene Orthopedic Products Liability Litigation* (defective joint replacements), MDL 3044 (EDNY); Plaintiffs Steering Committee, Federal/State Litigation Liaison, *In re New England Compounding Pharmacy, Inc. Products Liability Litigation* (fungal meningitis/infections), MDL 2419 (D. Mass); Plaintiffs Steering Committee and Co-Chair Plaintiffs Expert Committee, *In re Navistar Diesel Engine Product Liability Litigation* (defective diesel emissions systems), MDL No. 2223 (N.D. Ill); and Plaintiffs Steering Committee, *In re Ford Switch Fire Litigation* (fire-prone cruise control systems), Texas state court MDL, Travis County, Texas, Cause No. D-1-GN-08-000901. Mark also represents clients in many centralized litigations across the country.

In addition to serving on the Vanderbilt Law School adjunct faculty teaching “The Practice of Aggregate Litigation,” Mr. Chalos also was a drafting team leader for the Duke Law School, Bolch Judicial Institute’s “Guidelines and Best Practices for Large and Mass-Tort MDLs,” (Second Edition, September 2018).

A list of Mr. Chalos’ other qualifications and relevant experience is included in his CV, which is included as Exhibit A.

2. Work in this litigation to date: As a result of its experience with analogous incidents of toxic environmental releases, LCHB has been able to promptly retain a team of renowned experts with directly relevant experience, to begin immediate work on behalf of affected members of the community, including: (1) a distinguished professor at a university in Ohio, who has researched and published widely on the acute and long-term effects of toxic exposures on pulmonary function, to conduct pulmonary function testing of symptomatic residents; (2) physician and professor of pediatrics at an Ohio university and Chief of Neonatology Division at

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Page 3

an Ohio children's hospital, to evaluate health effects of exposure on babies, children, and pregnant women; (3) professor of Preventive Medicine and Environmental Health/ Chair of the Department of Epidemiology and Environmental Health at a university in a contiguous state, to research the nature and scope of community-wide exposure and effects; (4) professor at an Ivy League university, who specializes in the study of atmospheric turbulence and dispersion, the analysis of meteorological and air quality data, and the development, evaluation, and application of air quality models, to assess the scope and geographic area of exposure to the toxic byproducts of vinyl chloride and other toxics released during the incident; and (5) a chemical process safety expert with decades of experience in characterizing the nature and amounts of various chemicals released into the environment during accidental releases, and the chemical reactions that transform those substances into other toxic materials in air, soil and water.

3. Willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel: Mr. Chalos's frequent appointments to MDL and class action leadership positions is evidence of his reputation among the plaintiffs' bar, and the plaintiffs' MDL and class action bars, in particular. Further, while litigation is an adversarial process by design, Mr. Chalos strongly believes that collaboration with *all* counsel is imperative in any complex litigation where numerous lawyers are involved on both sides of the litigation. Complex cases require significant court resources to decide substantive matters and those resources should not be wasted addressing minor disputes that can be avoided by being reasonable and professional.

4. Willingness and ability to immediately commit to time-consuming litigation: Mr. Chalos has demonstrated his willingness and ability to commit to time-consuming multidistrict litigations as evidenced by his dedication to the multidistrict litigation process over the past decades and the significant responsibilities he has accepted in each litigation. LCHB has devoted significant resources to prosecuting multiple MDLs, including being involved in multiple MDLs at once. Mr. Chalos and LCHB are familiar with the demands of such cases.

5. Access to resources available to prosecute this litigation in a timely manner: With more than 100 lawyers, the firm has offices in Nashville, New York, San Francisco, and Munich, Germany. Described by *The American Lawyer* as "one of the nation's premier plaintiffs' firms," LCHB enjoys a national reputation for professional integrity and the successful prosecution of our clients' claims. The firm has been recognized repeatedly as one of the nation's top plaintiffs' law firms, has prosecuted hundreds of class actions on behalf of plaintiff classes, has served as lead class, MDL counsel, and other court-appointed leadership roles in numerous cases. LCHB has recovered more than \$124 billion for its clients: twenty-eight cases resolved for over \$1 billion; another 55 cases resulted in verdicts or settlements in excess of \$100 million. LCHB possesses sophisticated legal skills and the financial resources necessary for the handling of large, complex cases, and for litigating against some of the nation's largest corporations. The National Law Journal has recognized LCHB as a member of its Plaintiffs' Hot List Hall of Fame, "representing the best qualities of the plaintiffs' bar and demonstrating unusual dedication and creativity."

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LCHB has served as class counsel in some of the largest environmental disaster cases in our nation's history. LCHB founding partner Elizabeth J. Cabraser served on the Plaintiffs Steering Committee in the Deepwater Horizon oil spill in the Gulf of Mexico, which resulted in more than \$13 billion being paid to compensate claimants for their losses. Ms. Cabraser was also court-appointed Class Counsel in the 1989 Exxon-Valdez spill in Alaska that resulted in an award to the plaintiff class in the amount of \$977 million.

LCHB also served as court-appointed Plaintiffs Liaison Counsel and Lead Class Counsel, and chaired the Plaintiffs Litigation Committee, in coordinated proceedings arising from the 1991 Southern Pacific train tanker derailment. The derailment caused a spill of 19,000 gallons of toxic pesticide into the Sacramento River and is considered the worst inland ecological disaster in California history (*In re Sacramento River Spill Cases I and II*, JCCP Nos. 2617 & 2620 (Cal. Sup. Ct.)). Settlement proceeds were distributed pursuant to court-approved allocation plan to four certified plaintiff classes: personal injury, business loss, property damage/diminution, and evacuation.

In addition to Mr. Chalos, the LCHB team will also include senior lawyers with decades of MDL and class action experience, including in environmental contamination cases:

Robert Nelson is an attorney with 35 years of experience, representing clients from all 50 states and numerous countries in complex litigation, including class actions and mass tort actions. Mr. Nelson has served as court-appointed Lead or Co-Lead Counsel in several dozen state and federal coordinated proceedings, as well as in close to 40 class actions. Mr. Nelson has extensive experience leading environmental contamination litigation, including serving as Class Counsel against Plains All-American Pipeline in an action arising out of the 2015 oil spill off the coast of Santa Barbara; the \$230 million settlement received final settlement approval in 2022 (*Andrews, et al. v. Plains All American Pipeline, et al.*, No. 2:15-cv-04113-PSG-JEM (C.D. Cal.).) Mr. Nelson also served as class counsel in an action arising from the methane gas leak in the town of Porter Ranch, a suburb of Los Angeles, that injured residents and forced the evacuation of 15,000 residents from the town. A property class case settled for \$40 million in 2022 and the individual actions settled for \$1.8 billion. (*In re: Southern California Gas Leak Cases (Porter Ranch)*, JCCP No. 4861 (Los Angeles Sup. Ct.).)

In this district, Mr. Nelson was previously appointed to the Plaintiffs Executive Committee in litigation against welding rod industry (*In re Welding Fume Products Liability Litigation*, MDL 1535 (N.D. Ohio)). Mr. Nelson served as counsel for the Attorneys General of 13 states in litigation against the tobacco companies that culminated in the 1997 Master Settlement Agreement on behalf of all 50 states, a settlement valued at \$246 billion, the largest settlement in history. He also served as Class Counsel in a RICO action against State Farm involving State Farm's funding the campaign of an Illinois Supreme Court justice, and then lying about doing so. Mr. Nelson was awarded Public Justice's Trial Lawyer of the Year award for his work on the case, which settled for \$250 million on the day of trial.

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Mr. Nelson is a 1987 graduate of New York University School of Law, where he served as Articles Editor, NYU Law Review and Order of the Coif. He is a 1982 graduate of Cornell University, where he received a Bachelor of Arts degree, *cum laude*.

In 2021, Mr. Nelson was named a “Energy/Environmental Law Trailblazer,” by the National Law Journal.

Jonathan D. Selbin is a senior partner in the New York office of Lieff, Cabraser, Heimann & Bernstein, LLP, where he has practiced for over 27 years, and a long-time member of the firm’s Executive Committee. He has led complex consumer protection, defective products, and sex abuse class action lawsuits in courts around the country against many of the world’s largest corporations and institutions. Together, cases in which Jonathan played a lead role have resulted in court-approved class action settlements with a combined total cash payout to class members in excess of \$3.55 billion, plus other relief such as extended and enhanced warranties and implementation of best-practices institutional reforms. He has extensive appellate experience, having argued in the 1st, 5th, 6th, 7th, 9th, and 11th Circuits, as well as before state supreme and appellate courts.

Jonathan has served as court-appointed lead or co-lead counsel in numerous large and complex class actions and MDLs, including *In re Navistar MaxxForce Engines Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2590 (N.D. Ill.); *In re Capital One Telephone Consumer Protection Act Litigation*, MDL No. 2016 (N.D. Ill.); *In re Imprelis Herbicide Marketing, Sales Practices & Products Liability Litigation*, MDL No. 2284 (E.D. Pa.); *Smith v. State Farm Mut. Auto. Ins. Co.*, No. 1:13-cv-02018 (N.D. Ill.); *In re Whirlpool Corporation Front-Loading Washer Products Liability Litigation*, MDL No. 2001 (N.D. Ohio); and *In re Mercedes-Benz Tele Aid Contract Litig.*, MDL No. 1914 (D.N.J.).

Among many other awards and accolades, Jonathan was named a finalist for “Litigator of the Year” by *The American Lawyer*, was named in both 2020 and 2021 as a “Plaintiffs’ Lawyers Trailblazer” by the *New York Law Journal*, which recognizes plaintiffs’ lawyers “all of whom prove to be born leaders and true agents of change,” and was named a *Law360* 2020 “Titan of the Plaintiffs Bar” for his work on behalf of consumer rights.

Jonathan is a 1993 *magna cum laude* graduate of Harvard Law School and a 1989 *summa cum laude* graduate of the University of Michigan. He clerked for the Honorable Marilyn Hall Patel of the United States District Court for the Northern District of California from 1993-1995 prior to joining Lieff Cabraser.

6. Names and Contact Information of Judicial References

Hon. Charles R. Breyer – Northern District of California - *City and County of San Francisco v. Purdue Pharma L.P., et al.*, case no. 3:18-cv-07591-CRB (N.D. Cal.). Mr. Chalos was a member of the team that tried the City of San Francisco’s opioid lawsuit to Judge Breyer. That was a multi-month MDL bellwether trial that concluded in July 2022 resulting in a verdict in favor of his client. (Calendar Clerk & Courtroom Deputy: Lashanda Scott, 415-522-2062.)

Judge Benita Y. Pearson
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Hon. Rya Zobel – District of Massachusetts – *In re New England Compounding Pharmacy, Inc. Products Liability Litigation* (fungal meningitis/infections), MDL 2419 (D. Mass). In addition to serving on the Plaintiffs Steering Committee, Mr. Chalos served as Federal/State Liaison. The MDL litigation settled shortly before the start of a bellwether trial, wherein Mr. Chalos was serving as lead trial counsel. (Courtroom Clerk: Lisa Urso, 617-748-9187.)

Special Master David Cohen – Mr. Cohen serves as Special Master in *In re National Prescription Opiate Litigation*, MDL 2804 (N.D. Ohio) and served as Special Master in *In re Whirlpool Front Loading Washer Products Liability Litigation*, MDL 2001 (N.D. Ohio), wherein Mr. Chalos had a number of hearings in front of and other interactions with Special Master Cohen. (216-831-0001).

7. **Willingness to serve:** While Mr. Chalos is willing to serve in whatever capacity the Court thinks is appropriate, he believes that the most appropriate role for him in this litigation is as a member of the Plaintiffs Executive Committee.

Thank you.

Respectfully submitted,



Mark P. Chalos

MPC/wp

2765595.1

MARK P. CHALOS | mchalos@lchb.com

Attorney with 25 years of experience, representing clients nationwide in complex litigation, including class actions and mass tort actions; has tried jury and bench trials in federal and state courts.

RELEVANT CAREER HIGHLIGHTS

Mr. Chalos has served in court-appointed leadership positions in multiple federal and state coordinated proceedings and has represented clients in multiple environmental contamination lawsuits.

- Co-Lead MDL Counsel and Co-Lead Trial Counsel, *In re Whirlpool Front Loading Washer Products Liability Litigation*, MDL 2001 (N.D. Ohio) (federal class action case that was tried to a jury in Cleveland, Ohio).
- Served on team that tried the City of San Francisco's opioid lawsuit alleging public nuisance, which was a bellwether case remanded from *In re National Prescription Opiate Litigation*, MDL 2804 (N.D. Ohio) (multi-month bench trial that concluded in July 2022, resulting in a successful verdict for our client).
- Co-Lead Counsel, *Braziel, et al. v. Michigan Department of Environment, Great Lakes, and Energy*, case no. 22-000046-MM (Michigan Court of Claims) (consolidated class action state court litigation re: lead contamination of Benton Harbor's municipal water system).
- Representing community members in Jackson, Mississippi, in *Sterling v. City of Jackson, Mississippi*, case no. 3:22-cv-531-KHJ-MTP (S.D.Miss.) (federal class action against government entities and private companies alleging that the water system is contaminated with lead and other pollutants).
- Represented community members in East Tennessee in *Kingston, Tennessee TVA Coal Ash Spill Litig.*, No. 3:09-cv-09 (E.D.Tenn.)(federal class action against Tennessee Valley Authority arising from coal ash spill that contaminated waterways and adjacent properties with heavy metals and other poisons).

WORK EXPERIENCE

Lieff, Cabraser, Heimann & Bernstein, LLP (Nashville, TN)

Managing Partner, Nashville Office (2015-present); Partner (2007-present); Associate (2004-2006).

Vanderbilt University Law School (Nashville, TN)

Adjunct Professor of Law (2018-present).

Teaching "The Practice of Aggregate Litigation" to second- and third-year law students.

Neal & Harwell, PLLC (Nashville, TN)

Associate (1998-2004).

EDUCATION

Emory University School of Law

Juris Doctor, 1998; Dean's List

Research Editor, *Emory International Law Review*

Vanderbilt University

Bachelor of Arts, 1995

PROFESSIONAL SERVICE

Tennessee Trial Lawyers Association

President, 2022-2023

American Association for Justice, Class Action Section

Chair, 2022-2024

SCHOLARSHIP

“Guidelines and Best Practices for Large and Mass-Tort MDLs, (Second Edition),” Bolch Judicial Institute, Duke Law School, September 2018 (Drafting Team Leader).

“Discovery Proportionality Guidelines and Practices,” 99 JUDICATURE, no. 3, Winter 2015, at 47–60, Duke Law Center for Judicial Studies (Drafting Team Leader).

LITIGATING INTERNATIONAL TORTS IN UNITED STATES COURTS, book published by Thomson Reuters/West (2012-2022 eds.).

LITIGATION LEADERSHIP

Co-Lead MDL Counsel, *In Re Evenflo Co., Inc. Marketing, Sales Practices and Products Liability Litigation* (child booster seats), MDL 2938 (D. Mass.);

Co-Lead MDL Counsel and Co-Lead Trial Counsel, *In re Whirlpool Front Loading Washer Products Liability Litigation* (moldy washers), MDL 2001 (N.D. Ohio);

Co-Lead Interim Class Counsel, *Miller v. Ford* (engine failures), Case No. 2:20-cv-01796 (E.D. CA);

Co-Lead Class Counsel, *Weidman v. Ford* (brake failures), Case No. 2:18-cv-12719 (E.D. MI);

Co-Lead Class Counsel, *Alger v. FCA US, LLC* (exploding headrests), Case No. 2:18-cv-00360 (E.D. CA);

Co-Lead Class Counsel, *Costa et al v. FCA US LLC* (exploding headrests), Case No. 1:20-cv-11810-ADB (D. Mass.);

Co-Lead Counsel, *Braziel v. Michigan Department of Environment, Great Lakes, and*

Energy (consolidated litigation re: lead contamination of Benton Harbor's Water System), Case No. 22-000046-MM (Michigan Court of Claims);

Plaintiffs Executive Committee, *Murphy v. Graco Children's Products* (child booster seats), Case No. 1:20-cv-03030-LMM (N.D. GA);

Chair, MDL Expert Committee, *In re General Motors Air Conditioning Marketing and Sales Practices Litigation* (defective AC in vehicles), MDL 2818 (E.D. MI);

Plaintiffs Steering Committee, *In re Exactech Polyethylene Orthopedic Products Liability Litigation* (defective joint replacements), MDL 3044 (EDNY);

Plaintiffs Steering Committee, Federal/State Litigation Liaison, *In re New England Compounding Pharmacy, Inc. Products Liability Litigation* (fungal meningitis from contaminated injections), MDL 2419 (D. Mass.);

Plaintiffs Steering Committee and Co-Chair Plaintiffs Expert Committee, *In Re Navistar Diesel Engine Product Liability Litigation* (defective emission systems), MDL No. 2223 (N.D. Ill.);

Plaintiffs Steering Committee, *In Re Ford Switch Fire Litigation* (fire-prone cruise control systems), Texas State Court MDL, Travis County, Texas, Cause No. D-1-GN-08-000901.

COURT & BAR ADMISSIONS

Tennessee, 1998

U.S. Supreme Court, 2012

U.S. Court of Appeals, 1st Circuit, 2022

U.S. Court of Appeals, 6th Circuit, 1999

U.S. Court of Appeals, 7th Circuit, 2012

U.S. Court of Appeals, 9th Circuit, 2019

U.S. District Court, Northern District of California, 2007

U.S. District Court, Northern District of Florida, 2006

U.S. District Court, Eastern District of Tennessee, 2006

U.S. District Court, Middle District of Tennessee, 2000

U.S. District Court, Western District of Tennessee, 2002

AWARDS

- AV Preeminent Peer Review Rated, *Martindale-Hubbell*
- Best Lawyers in America in fields of "Mass Tort Litigation/Class Actions – Plaintiffs," 2012-2023
- "Lawdragon 500 Leading Plaintiff Consumer Lawyers in America," *Lawdragon*, 2019-2023
- "South Trailblazer," *The American Lawyer*, 2022
- "Lawyer of the Year for Product Liability Litigation," Southeast, *Best Lawyers*, 2021
- "Outstanding Private Practice Antitrust Achievement," American Antitrust Institute, 2020
- "Tennessee Top 100," *Super Lawyers*, 2015, 2019
- "Lawdragon 500 Leading Plaintiff Consumer Lawyers," 2019
- American Bar Foundation Fellow, 2016

- “Super Lawyer for Mid-South,” *Super Lawyers*, 2011-2023
- “In Charge” list of community leaders, *Nashville Post*, 2016-2022
- “Best of the Bar,” *Nashville Business Journal*, 2008-2010, 2015-2017
- “Tennessee Litigation Star,” *Benchmark Litigation*, 2013-2015
- “Rising Star for Mid-South,” *Super Lawyers*, 2008-2010
- “Top 40 Under 40,” *The Tennessean*, 2004



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"I will stand for my client's rights.
I am a trial lawyer."
-Ron Motley (1944-2013)

40 Westminster St., 5th Floor
Providence, RI 02903
o. 401.457.7700 f. 401.457.7708

Vincent L. Greene IV

Licensed in RI
direct: 401.457.7730
vgreene@motleyrice.com

FILED VIA CM/ECF

March 10, 2023

Hon. Benita Y. Pearson
United States District Judge
313 Thomas D. Lambros United States Federal Building and Courthouse
125 Market Street
Youngstown, Ohio 44503-1780

Re: **In re: Feezle et al. v. Norfolk Southern Railway Co., et al.**
Civil Action Number: 4:23-CV-00242

Dear Judge Pearson:

Pursuant to Your Honor's Order of March 8, 2023, I write in application for a seat on the Plaintiff's Executive Committee in the above-named litigation. I am the lead counsel in *Snyder et al. v. Norfolk Southern Railway Co.*, Case No. 4:23-cv-0344 and *Dettmer et al. v. Norfolk Southern Railway Co.*, Case No. 4:23-cv-0345. I bring both years of personal experience litigating complex matters including Opioid, Tobacco, Medical Device, Lead Poisoning, and Asbestos cases as well as Motley Rice LLC's full compliment of resources and support.

I can contribute to the experience to leadership in this litigation. My skill set includes complex case investigation, case management, discovery, trials, and resolution across multiple legal disciplines. Most importantly, I believe my in-depth knowledge and experience of working on thousands of toxic exposure cases will be an asset to this Executive Committee. I have a long history showcasing my proven ability to lead complex and consolidated cases effectively and efficiently. My history of working collegially with members on both sides of the bar will foster professional and economical solutions to the common problems in mass tort litigation.

I graduated the George Washington University Law School in May of 1998. I am a member of the bar of the State of Rhode Island and admitted to practice before the United States District Court for the District of Rhode Island. I joined Motley Rice, LLC as an associate in 1998 and was promoted to member in 2008. I spent the first several years of my practice litigating cases against the tobacco and asbestos industries.



VLG to BYP re: Executive Committee Application
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1. Professional Experience with MDLs: Motley Rice has been in leadership positions in over a dozen MDLs including *Oil Spill by the Oil Rig “Deepwater Horizon”* (MDL 2179), *In Re: Kugel Mesh Hernia Patch Products Liability Litigation* (MDL 1842), *In Re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation* (MDL 2672), Transvaginal Mesh MDLs (MDLs 2187, 2325, 2326, 2327) and *In Re: National Prescription Opiate Litigation* (MDL 2804). These litigations span diverse practice areas including securities law, product liability, environmental law, and personal injury. However, Motley Rice consistently contributes leadership in investigation, case management, discovery, trial, and resolution.¹

I have worked closely on MDL and state consolidations such the first hernia mesh MDL *In Re: Kugel Mesh Hernia Patch Products Liability Litigation* (MDL 1842) and its state companion *In re: Kugel Mesh*, 2008-PC-9999. I have litigated lead and asbestos cases across the country, with a significant portion of that practice based in Ohio.

2. Willingness and ability to immediately commit to time-consuming litigation: I, and my firm, have demonstrated willingness and ability to commit to time-consuming multidistrict litigations. Motley Rice has held leadership positions in over a dozen MDLs. I have been lead-counsel in complex cases, such as *The City of Boston, et al. v. Purdue Pharma L.P., et al.*, C.A. No. 1884CV02860-BLS2, *State of New Hampshire v Johnson and Johnson, et al.* 217-2018-CV-000678, and *State of Rhode Island v. Purdue Pharma, L.P., et al.*, C.A. No. PC-2018-4555. In my role as lead-counsel for these cases I was responsible for coordinating the activities of dozens of lawyers from around the country, devising and implementing strategies to litigate claims efficiently and effectively. In both the opioids litigation and the *Kugel Mesh* MDL I was deeply involved in the substantive litigation from pre-trial filing through trials.

3. Willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel: Both I and my firm have a nationally recognized reputation for cooperation and collegiality on both sides of the bar. Understanding litigation is by design an adversarial process, it is our aspiration to always conduct this work with collaboration, hard work, respect, and by receiving different viewpoints.

This approach has earned me and Motley Rice the friendship of colleagues and respect of defense counsel. My approach enables me to uniquely navigate the differing viewpoints often at play in complex litigation while brokering consensus on key issues.

4. Access to resources available to prosecute this litigation in a timely manner: With offices in six states, Motley Rice has a nationally based plaintiffs' practice and the firm has vast experience litigating complex cases nationally, including successful litigation against the asbestos

¹ See, Exhibit A to Vincent Greene's Letter Application.



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industry, the tobacco industry, the opioid industry, on behalf of victims of terrorism, and many medical device/drug mass torts.

To this case Motley Rice brings experienced lawyers including Joseph Rice, Vincent Greene, Jonathan Orent, Dennis Costigan, Kate Menard, John Hurst, Jim Brauchle, and Robert Haefele. Motley Rice additionally has established and competent local counsel in Michael O'Shea of the Lipson O'Shea Legal Group in Cleveland, Ohio and Grant MacKay of Cleveland, Ohio. Importantly, Mr. MacKay is originally from East Palestine and has been a ubiquitous presence and advocate for the town since this disaster.

Given Motley Rice's history of work on MDLs and complex litigation, the firm understands the scope of commitment – including financial, staffing and time commitments – necessary to afford the quality of representation that each Plaintiff deserves, and we are fully committed to representing all to the greatest extent possible. In addition to Motley Rice's varied MDL practice, my firm has litigated class actions against Norfolk Southern in the past. My firm was heavily involved in the litigation surrounding a derailed train causing property damage, physical injury, and economical loss in Graniteville, South Carolina. Motley Rice has two class cases filed before Your Honor and represents hundreds of clients affected by the Norfolk Southern train derailment. This team and Motley Rice's national reach will ensure this project is appropriately funded and staffed.

5. Willingness to serve as a member of executive committee: I am ready, willing, and able to serve in any capacity this Court sees fit. However, I believe that the most appropriate role is as a member of the Executive Committee.

6. Other Considerations: Professionally I have received the following honors:

- **Beyond the Call of Duty Award** 2001 the Childhood Lead Action Project
- **Best Lawyers®** 2017–2023 Product liability litigation – plaintiffs
- **Best Lawyers®** 2023 Consumer Protection Law
- **Rhode Island Super Lawyers®** lists 2014–2022 Personal injury – products: plaintiff; Class action/mass torts; Environmental litigation
- **Lawdragon** 2020–2023 Lawdragon 500 Plaintiff Consumer Lawyers
- **Benchmark Plaintiff** 2012–2014 Rhode Island “Litigation Star”: environmental, medical malpractice, toxic tort
- **The Legal 500 United States** 2010 Mass tort and class action: plaintiff representation – toxic tort
- **Martindale-Hubbell® AV®** rated attorney

I have devoted my career to seeking justice for those harmed by corporate malfeasance. I have authored a law review article on evidentiary issues. I am active in both local and national interest groups including the Rhode Island Association for Justice and the American Civil Liberties Union. I



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was President of the Rhode Island Association for Justice for the 2015 term. I am currently a board member and finance chair for the Rhode Island Center for Justice.

Finally, my application to serve as a member of the Plaintiffs' Executive Committed is supported by the plaintiffs' counsel listed on the attached Exhibit A. I likewise support the applications of those attorneys for the appointments listed there. I know those lawyers and law firms well, have worked with many of them in prior MDLs, and can assure the Court that this potential consolidation would be well-served by those appointments.

EXHIBIT A

FIRM RESUME





MotleyRice[®]
LLC

FIRM OVERVIEW

Motley Rice attorneys have been at the forefront of some of the most significant and monumental civil actions over the last 30 years. Our experience in complex trial litigation includes class actions and individual cases involving securities and consumer fraud, occupational disease and toxic tort, medical drugs and devices, environmental damage, terrorist attacks and human rights abuses.

Tobacco Master Settlement Agreement

In the 1990s, Motley Rice attorneys and more than half of the states' attorneys general took on the tobacco industry. Armed with evidence acquired from whistleblowers, individual smokers' cases and tobacco liability class actions, the attorneys led the campaign in the courtroom and at the negotiation table to recoup state healthcare funds and exact marketing restrictions from cigarette manufacturers. The effort resulted in significant restrictions on cigarette marketing to children and culminated in the \$246 billion Master Settlement Agreement, the largest civil settlement in U.S. history.

Asbestos Litigation

From the beginning, our lawyers were integral to the story of how "a few trial lawyers and their asbestos-afflicted clients came out . . . to challenge giant asbestos corporations and uncover the greatest and longest business cover-up of an epidemic disease, caused by a product, in American history."¹ In addition to representing thousands of workers and family members impacted by asbestos, Motley Rice has represented numerous public entities, and litigated claims alleging various insurers of asbestos defendants engaged in unfair settlement practices in connection with the resolution of underlying asbestos personal injury claims. This litigation resulted in, among other things, an eleven-state settlement with Travelers Insurance Company.

Anti-Terrorism and Human Rights

In *In re Terrorist Attacks on September 11, 2001*, Motley Rice attorneys brought a landmark lawsuit against the alleged private and state sponsors of al Qaeda and Osama bin Laden in an action filed on behalf of more than 6,600 family members, survivors, and those killed on 9/11—including the representation of more than 900 firefighters and their families. In prosecuting this action, Motley Rice has undertaken a global investigation into terrorism financing.

Our attorneys also initiated the *In re September 11 Litigation* and negotiated settlements for 56 families that opted out of the Victim Compensation Fund that far exceeded existing precedents at the time for wrongful death cases against the airline industry.

BP PLC Oil Spill Litigation

In April 2010, the Deepwater Horizon disaster spilled approximately 4.9 million gallons of oil into the water, killed 11 oil rig workers, devastated the Gulf's natural resources and profoundly harmed the economic and emotional well-being of hundreds of thousands of people. The Deepwater Horizon Economic and Property Damages Settlement is the largest civil class action settlement in U.S. history. Motley Rice co-founder Joseph Rice is a Plaintiffs' Steering Committee member and

served as one of the primary negotiators of that Settlement and the Medical Benefits Settlement. In addition, Rice led negotiations in the \$1.028 billion settlement between the PSC and Halliburton Energy Services for its alleged role in the oil spill. Motley Rice attorneys continue to hold leadership roles in the litigation and are currently working to ensure that all qualifying oil spill victims are fairly compensated.

Volkswagen 'Clean Diesel' Litigation

In 2015, Volkswagen Group's admission that it had programmed more than 11 million vehicles to cheat emissions tests and bypass standards sparked worldwide outrage. Motley Rice co-founder Joe Rice served as one of the lead negotiators in the nearly \$15 billion settlement deal reached in 2016 for U.S. owners and lessees of 2.0-liter TDI vehicles, the largest auto-related consumer class action settlement in U.S. history. Rice and other Motley Rice attorneys also helped recover up to \$4.4 billion with regards to affected 3.0-liter vehicles.

Transvaginal Mesh Litigation

Motley Rice attorneys represent thousands of women and have played a leading role in litigation alleging debilitating and life-altering complications caused by defective transvaginal mesh devices. In 2014, Joe Rice, with co-counsel, negotiated the original settlement deal reached in *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation* that numerous subsequent settlements with the manufacturer were modeled after.

Opioid Litigation

Motley Rice is at the forefront of national opioid litigation and represents dozens of governmental entities, including states, cities, towns, counties and townships in ongoing investigations and litigations filed in both the National Prescription Opiate Litigation, as well as in state courts that allege deceptive marketing and/or overdistribution of opioids. Firm co-founder Joe Rice is one of three co-leads for the MDL coordinated in the Northern District of Ohio. Also holding leadership positions in the MDL are Motley Rice attorneys Linda Singer (DC, NY), co-chair of the Manufacturer/Marketing Committee, and Lou Bograd (DC, KY), co-chair of the Law & Briefing Committee. Joe Rice led negotiations for a proposed \$26 billion settlement reached in July 2021 with Johnson & Johnson and the nation's "Big Three" opioid distributors, AmerisourceBergen, Cardinal Health and McKesson for the more than 3,000 litigating communities in the MDL. Motley Rice attorneys also led negotiations for the \$260 million settlement that was reached on the eve of trial in 2019 to resolve the MDL's first track of claims filed by two Ohio subdivisions, Summit County, a Motley Rice client, and Cuyahoga County.

LITIGATION PROFILES Motley Rice has held leadership roles in numerous cases. Highlights include:

DEFECTIVE DRUGS AND DEVICES

Plaintiffs' Executive Committee *In re Paragard IUD Products Liability Litigation*, MDL 2974 (N.D.Ga.)

Plaintiffs' Steering Committee and Co-Chair of Leadership Development Committee *In re: Zantac (Ranitidine) Products Liability Litigation*, No. 9:20-md-02924 (S.D. Fla.).

Plaintiffs' Steering Committee *In re Allergan Biocell Textured Breast Implant Products Liability Litigation*, No. 2:19-md-02921, (D.N.J.)

Bellwether Committee Co-Chair *In re Xarelto Products Liability Litigation*, MDL 2592

Plaintiffs' Steering Committee *In re Proton-Pump Inhibitor Prods. Liability Litigation* (No. II), D.N.J.

Plaintiffs' Steering Committee *In re Zimmer NexGen Knee Implant Products Liability Litigation*, N.D. Ill.

Plaintiffs' Steering Committee and Co-lead Counsel *In re Ethicon Physiomesh Flexible Composite Hernia Mesh Products Liability Litigation*, MDL 2782

Lead Counsel; Plaintiffs' Executive Committee **Essure Permanent Sterilization Device California State Court Consolidation**

Lead counsel and Plaintiffs' Executive Committee in *In re Atrium Medical Corp. C-QUR Mesh Products Liability Litigation*, MDL 2753

Plaintiffs' Steering Committee, Co-lead Counsel and Liaison Counsel in *In re Davol/ C.R. Bard Hernia Mesh* (PC-2017-1929)

Plaintiffs' Steering Committee *In re Johnson & Johnson Talcum Powder Products Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2738

Co-lead counsel and Plaintiffs' Steering Committee *In re Zofran (Ondansetron) Products Liability Litigation*, MDL No. 2657

Plaintiffs' Executive Committee in *In re Viagra (Sildenafil Citrate) and Cialis (Tadalafil) Products Liability Litigation*, MDL 2691

Plaintiffs' Steering Committee in *In re Bard IVC Filters Products Liability Litigation*, MDL 2641

Plaintiffs' Steering Committee of *In re Lipitor® (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation*, MDL 2502.

Co-lead plaintiffs' counsel and liaison counsel *In re Kugel Mesh Hernia Patch Products Liability Litigation*, MDL No. 07-1842 Rhode Island federal court's first consolidated MDL, on behalf of thousands of people alleging injury by the hernia repair patch manufactured by Davol, Inc., as well as liaison counsel for the nearly 2,000 lawsuits consolidated in Rhode Island state court.

Co-lead coordinating counsel of *In re Ethicon, Inc., Pelvic Repair Systems Products Liability Litigation*, MDL 2327 (S.D.W.Va.)

Co-lead counsel in *In re American Medical Systems, Inc., Pelvic Repair Systems Products Liability Litigation*, MDL 2325 (S.D.W.Va.)

Co-liaison counsel *In re C.R. Bard, Inc., Pelvic Repair Systems Products Liability Litigation*, MDL 2187 (S.D.W.Va.)

Co-lead counsel *In re Boston Scientific Corp., Pelvic Repair Systems Products Liability Litigation*, MDL 2326, (S.D.W.Va.)

Co-liaison counsel *In re Pelvic Mesh Litigation/Bard*, No. L-6339-10 in New Jersey state court.

State court liaison counsel of *In re Bard Litigation* in Massachusetts and Delaware

Co-lead counsel of the **Mirena MDL** (S.D.N.Y.)

Co-lead counsel in the *In re Mirena Product Liability* state court consolidation in New Jersey

Plaintiffs' Steering Committee of *In re Power Morcellator Products Liability Litigation*, MDL No. 2652

Plaintiffs' Steering Committee of *In re Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, MDL 2342

Plaintiffs' Steering Committee of *In re NuvaRing Products Liability Litigation*, MDL 1964

Plaintiffs' Steering Committee of *In re DePuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation*, MDL 2197

Plaintiffs' Steering Committee of *In re DePuy Orthopaedics, Inc. Pinnacle Hip Implant Products Liability Litigation*, MDL 2244

In re A.H. Robins Co., Inc., "Dalkon Shield" IUD Products Liability Litigation (No. II), MDL 631

Plaintiffs' Steering Committee of *In re Medtronic, inc., Sprint Fidelis Leads Products Liability Litigation*, MDL 1905

Plaintiffs' Steering Committee of *In re Trasylol Products Liability Litigation*, MDL 1928

Plaintiffs' Steering Committee of *In re Levaquin Products Liability Litigation*, MDL 1943

Plaintiffs' Steering Committee and co-lead counsel of *In re Digitek Products Liability Litigation*, MDL 1968

Plaintiffs' Steering Committee of *In re Avandia Marketing, Sales Practices and Products Liability Litigation*, MDL 1871

Plaintiffs' Steering Committee of *In re Hydroxycut Marketing and Sales Practice Litigation*, MDL 2087

Plaintiffs' Steering Committee of *In re Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation*, MDL 2096

Plaintiffs' Steering Committee and co-lead counsel of *In re Human Tissue Products Liability Litigation*, MDL 1763

In re Temporomandibular Joint (TMJ) Implants Products Liability Litigation, MDL 1001

In re Abbott Laboratories Omnitrol Products Liability Litigation, MDL 1004

Plaintiffs' Steering Committee and liaison counsel of *In re Showa Denko K.K. L-tryptophan Products Liability Action*, MDL No. 865



CONSUMER PROTECTION

Plaintiffs' Steering Committee *In re McKinsey & Co., Inc. National Prescription Opiate Consultant Litigation* No. 21-md-02996-CRB (N.D. Cal.)

Co-Lead Counsel *In re National Prescription Opiate Litigation*, No. 17-md-02804 (N.D. Ohio).

Co-Lead Counsel *In re Blackbaud, Inc., Customer Data Breach Litigation*, MDL 2972 (D.S.C.)

Co-Lead Counsel on the Coordinating Committee for the Pennsylvania Coordinated Cases *County of Delaware v. Purdue Pharma L.P., et al.*

Plaintiffs' Steering Committee of *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC)

Plaintiffs' Steering Committee of *In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices and Products Liability Litigation*, No. 17-md-02777-EMC (N.D. Calif.)

Co-liaison counsel and Plaintiffs' Steering Committee in *In re 21st Century Oncology Customer Data Security Breach Litigation*, MDL 2737 (M.D. Fla.)

CATASTROPHIC INJURY AND WRONGFUL DEATH

Plaintiffs' Executive Committee of *In re General Motors LLC Ignition Switch Litigation*, MDL 2543

Hoover, et al. v. NFL, et al., MDL #2:12-cv-05209-AB (E.D. Pa.).

Lead counsel in *Charleston Firefighter Litigation v. Sofa Super Store, Inc., et al.*, No. 07-CP-10-3186 (Ct. of Common Pleas, Ninth Jud. Cir.), consolidated complex litigation involving the families of nine firefighters who died in a furniture store disaster.

Clifton Chesnut, a minor v. Waupaca Elevator Company, Inc., et al., No. 2013-CP-10-2060 (Ct. of Common Pleas, Ninth Jud. Cir.).

Veronica Lynne Tario v. SOCO, Holding, LLC et al., No. 2013-cp-26-2499 (Ct. of Common Pleas, Fifteenth Jud. Cir.).

Satterfield et al. v. Napa Home & Garden Inc., et al., No. 7:11-1514-JMC (D.S.C.).

Plaintiffs' Steering Committee and multiple plaintiffs' counsel, *In re San Juan DuPont Plaza Hotel Fire Litigation*, MDL 721 (D.P.R.).

Strother v. John Wieland Homes and Neighborhoods of the Carolinas, et al., No. 09-CO-29-1783 (Ct. of Common Pleas, Sixth Jud. Cir.), an individual catastrophic personal injury/premise liability case involving life-altering brain injury.

Plaintiffs' Steering Committee and Discovery Committee in *In re Bridgestone/Firestone, Inc. Tires Products Liability Litigation*, MDL 1373 (S.D. Ind.).

In re Ford Motor Co. E-350 Van Products Liability Litigation (No. II), MDL 1687

Class counsel in *Carol Lee Whitfield, et al., v. Sangamo Weston*, No. 6:84-3184 (D.S.C.), a PCB personal injury and property damage class action settled while pending before U.S. District Court for the District of South Carolina, Greenville Division.

In re Graniteville Train Derailment, No. 2006-CP-02-1032 (Ct. of Common Pleas, Second Jud. Cir.). served in a leadership role for both individual and class action cases in connection with the January 2005 railroad derailment and chemical spill in Graniteville, S.C.

SECURITIES FRAUD AND ERISA CLASS ACTIONS

Lead counsel in *Shenwick et al. v. Twitter Inc. et al.*, No. 3:16-cv-05314 (N.D. Cal.).

Co-lead counsel in *Hatamian v. Advanced Micro Devices, Inc.*, No. 14-cv-00226-JD (N.D. Cal.)

Lead counsel in *Bernacchi v. Investment Technology Group, Inc.*, No. 1:15-cv-06369-JFK (S.D.N.Y.).

Co-lead counsel in *Berry v. Wells Fargo & Co.*, No. 3:17-cv-00304 (D.S.C.)

Co-lead counsel in *In re Intel Corp. Securities Litigation*, No. 5:20-cv-05194-EJD (N.D. Cal.)

Co-lead counsel in *In re 3M Co. Securities Litigation*, No. 2:19-cv-15982 (D.N.J.)

Lead counsel in *Takata v. Riot Blockchain, Inc., et al.*, No. 3:18-cv-02293 (D.N.J.)

Co-lead counsel in *Parchmann v. MetLife, Inc. et al.*, No. 1:18-cv-00780-SJ-RLM (E.D.N.Y.)

Co-lead counsel in class action *Bennett v. Sprint Nextel Corporation*, No. 2:09-cv-02122-EFM-KMH (D.Kan.), representing the PACE Industry Union-Management Pension Fund (PIUMPF) and several other institutional investors.

Co-class counsel in *Alaska Electrical Pension Fund v. Pharmacia Corp.*, No. 03-1519 (D.N.J.). federal securities fraud litigation alleging that the defendants misrepresented clinical trial results of Celebrex® to make its safety profile appear better than rival drugs.

Lead counsel in *In re Barrick Gold Securities Litigation*, No. 1:13-cv-03851 (RPP) (S.D.N.Y.)

Lead counsel in *Hefler v. Wells Fargo & Co.*, No. 16-cv-05479-JST (N.D. Cal.)

Co-lead counsel in *Ross v. Career Education Corp.* No. 1:12-cv-00276 (N.D. Ill.).

Co-lead counsel representing a group of institutional shareholders *In re Allion Healthcare, Inc. Shareholders Litigation*, No. 5022-cc (Del. Ch.).

Co-lead counsel representing investors in ***Robert Freedman v. St. Jude Medical, Inc.***, No. 0:2012cv03070 (D. Minn.).

Co-lead counsel representing investors in ***In re Hewlett-Packard Co. Securities Litigation***, No. SACV 11-1404 AG (RNBx) (C.D. Cal.).

Co-lead counsel in ***In re UBS AG Securities Litigation***, No. 07 Cov. 11225 (RJS) (S.D.N.Y.).

Co-lead counsel representing institutional investors in ***Hill v. State Street Corporation***, No. 09-cv-12146-NG (D. Mass.).

Sole lead counsel representing lead plaintiffs in ***City of Brockton Retirement System v. Avon Products, Inc.***, No. 11 Civ. 4665 (PGG) (S.D.N.Y.).

Co-lead counsel on behalf of stockholders in ***Marsden v. Select Medical Corporation***, No. 04-cv-4020 (E.D. Pa.).

Co-lead counsel on behalf of a class of investors in ***South Ferry LP #2 v. Killinger***, No. C04-1599C-(W.D. Wash.) (regarding Washington Mutual).

Sole lead counsel representing the lead plaintiff in class action, ***In re NPS Pharmaceuticals, Inc. Securities Litigation***, No. 2:06-cv-00570-PGC-PMW (D. Utah), concerning the drug PREOS.

Co-lead counsel for co-lead plaintiffs Drywall Acoustic Lathing and Insulation Local 675 Pension Fund and Metzler Investment GmbH in ***In re Molson Coors Brewing Co. Securities Litigation***, No. 1:05-cv-00294 (D. Del.).

Co-lead plaintiffs' counsel in shareholder class action ***In re The DirecTV Group, Inc. Shareholder Litigation***, No. 4581-VCP (Del. Ch.).

Sole lead counsel in ***Manville Personal Injury Settlement Trust v. Gemunder***, No. 10-CI-01212 (Ky. Cir. Ct.) (regarding Omnicare, Inc.), a shareholder derivative complaint stemming from federal investigations into three kickback schemes.

Co-lead plaintiffs' counsel in ***City of Sterling Heights General Employees' Retirement System v. Hospira, Inc.***, No. 11 C 8332 (N.D. Ill.), a securities fraud class action.

Co-lead counsel in ***In re Rehabcare Group, Inc. Shareholders Litigation***, No. 6197-VCL (Del. Ch.), merger litigation involving the acquisition of healthcare provider RehabCare Group, Inc., by Kindred Healthcare, Inc.

Class counsel in ***Brown v. Charles Schwab & Co.***, No. 2:07-cv-03852-DCN (D.S.C.), one of the first cases to interpret the civil liabilities provision of the Uniform Securities Act of 2002.

Co-lead counsel in securities class action settlement ***In re MBNA Corporation Securities Litigation***, No. 05-CV-00272-GMS (D.Del.).

Lead counsel for lead plaintiffs in a securities class action involving a group of shareholders who purchased publicly-traded Dell securities in ***In re Dell, Inc. Securities Litigation***, No. A-06-CA-726-SS (W.D. Tex.).

Co-lead counsel in ***Minneapolis Firefighters' Relief Association v. Medtronic, Inc.***, No. 08-6324(PAM/AJB)(D. Minn.), representing a class of investors who purchased Medtronic common stock.

Co-lead counsel in ***In re Synovus Financial Corporation***, No. 1:09-cv-01811 (N.D. Ga.), for co-lead plaintiff Sheet Metal Workers' National Pension Fund, investors in Georgia bank Synovus Financial Corp.

Plaintiffs' Steering Committee and plaintiffs' liaison counsel, ***In re Policy Management Systems Corporation***, No. 3:93-0807-JFA (D.S.C.).

Sole lead counsel, ***In re Coventry Health Care, Inc. Securities Litigation***, No. 7905-CS (Del. Ch.), a shareholder class action challenging the \$7.2 billion acquisition of Coventry Health Care, Inc., by Aetna, Inc.

Co-lead counsel in Louisiana class action ***In re The Shaw Group, Inc. Shareholders Litigation***, No. 614399 (19th Jud. Dist. La.).

Co-lead counsel, ***In re Atheros Communications Inc. Shareholder Litigation***, No. 6124-VCN (Del. Ch.), merger litigation involving Qualcomm Incorporated's proposed acquisition of Atheros Communications, Inc.

ANTITRUST/COMPETITION LAW

Plaintiffs' Steering Committee ***In re Juul Labs, Inc. Antitrust Litigation***, Case No. 20-cv-02345-WHO (N.D. Cal.).

Plaintiffs' Steering Committee ***In re Chicago Board Options Exchange Volatility Index Manipulation Antitrust Litigation*** No. 18 CV 4171 MDL No. 2842 (N.D. Ill. Eastern Division).

Co-Lead Counsel ***In re Zetia (Ezetimibe) Antitrust Litigation***, MDL No. 2:18md2836 (E.D. Va Norfolk Division).

Plaintiffs' Steering Committee of ***In re Digoxin & Doxycycline Antitrust Litigation***, 16 md 2724 (E.D. Pa.)

Interim Co-Lead Counsel of ***In re Solodyn Antitrust Litigation***, 14 cv 2503 (D. Mass.)

Interim Co-Lead Counsel in antitrust class action ***In re Keurig Green Mountain Single-Serve Coffee Antitrust Litigation***, MDL No. 2542 (S.D.N.Y.).

Appointed to the Executive Committee in antitrust class action ***In re Lidoderm Antitrust Litigation***, MDL No. 2521 (N.D. Cal.).

Interim Liaison Counsel ***In Re Aggrenox Antitrust Litigation***, MDL No. 2516 (D.Conn.).

Co-lead counsel in antitrust class action ***In re Loestrin 24 Fe Antitrust Litigation***, MDL 2472 (D.R.I.).

Co-lead counsel in antitrust class action ***In re Suboxone (Buprenorphine Hydrochloride and Naloxone) Antitrust Litigation***, MDL 2445 (E.D. Pa.).

Co-lead counsel in antitrust class action ***In re Niaspan Antitrust Litigation***, MDL 2460 (E.D. Pa.).

Co-lead counsel in antitrust class action ***In re Effexor XR Antitrust Litigation***, No. 11-cv-05590 (D.N.J.).



Co-lead counsel for the end-payor antitrust class action *In re Actos Antitrust Litigation*, (S.D.N.Y.).

Co-lead counsel in antitrust class action *In re Lipitor Antitrust Litigation*, MDL 2332 (D.N.J.).

TOXIC TORTS AND OCCUPATIONAL DISEASE

Co-lead Counsel in the PFAS contamination class action in the Western District of Michigan, *Beverly Zimmerman, et al., v. 3M Company, et al.*, (W.D. Mich., Southern Division) Case No. 1:17-cv-1062-HYJ-SJB (December 1, 2017).

Liaison Counsel for *In re Aqueous Film-Forming Foams Products Liability Litigation* (MDL 2873 D.S.C.) regarding a fire suppressant that is part of the PFAS chemical group that allegedly contaminated groundwater and harmed people.

Plaintiffs' Executive Committee in the Flint, MI lead contamination class action: *In re Flint Water Cases*, No. 5:16-cv-10444 (E.D. Mich.).

Plaintiffs' Steering Committee of *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico on April 20, 2010*, MDL 2179, (E.D. La.), and lead settlement negotiators of the two class action settlements reached with BP, one of which is the largest civil class action settlement in U.S. history.

Lead trial counsel in *The People of the State of California v. Atlantic Richfield Company, et al.* No. 1-00-CV-788657 (Santa Clara Cnty. Super. Ct.) Resulting in 2014 verdict holding Sherwin-Williams Company, ConAgra Grocery Products and NL Industries Inc. liable for creating a public nuisance and ordered abatement of lead paint from homes within 10 California cities and counties.

Bongani Nkala & Others v. Harmony Gold Mining Company Limited & Others, No. 48226/12 (South Gauteng High Court, Johannesburg). Motley Rice has been retained as a consultant by South African human rights lawyer Richard Spoor in his effort to take on leading global gold producers and seek justice for tens of thousands of exploited gold mine workers suffering from silicosis.

Travelers Statutory Direct Action Settlement (Bankr. Court, S.D.N.Y.), an eleven-state asbestos settlement with Travelers Insurance.

Co-lead and Liaison Counsel in *In re KBR, Inc., Burn Pit Litigation*

Chair, Plaintiffs' Steering Committee and liaison counsel for plaintiffs, *In re Asbestos Products Liability Litigation*, MDL 875 (E.D. Pa.).

Plaintiffs' Steering Committee and coordinating counsel, *Linscomb v. Pittsburgh Corning Corporation*, No. 1:90cv-05000 (E.D. Tex.), a national class action on behalf of asbestos victims nationwide.

Michelle McMunn, et al. vs. Babcock & Wilcox Power Generation Group, Inc., et al., Civil Action No. 10-143 2:10-cv-00143-DSC-RCM

Lead plaintiffs' counsel in *Bates v. Tenco Services Inc.*, 132 F.R.D. 160 (D.S.C. 1990), a jet fuel pollution case involving the consolidated property damage and personal injury claims of multiple plaintiffs in the Gold Cup Springs subdivision.

Executive committee member in *In re Asbestos School Litigation*, No. 94-1494 (E.D. Pa.), a national school asbestos class action.

Lead plaintiffs' counsel in *Central Wesleyan College v. W.R. Grace & Co.*, No. 2:87-1860-8 (D.S.C.), a national asbestos property damage class action.

Lead plaintiffs' counsel in *In re Raymark Asbestos Exposure Cases*, No. 87-1016-K (D. Kan.), a national asbestos personal injury class action in which 19,684 claims were resolved.

Co-lead plaintiffs' counsel in *Cimino v. Pittsburgh Corning Corporation*, No. 1:85-CV-00676 (E.D. Tex.), an asbestos personal injury class action on behalf of approximately 2,300 plaintiffs.

Co-lead plaintiffs' counsel in *Chatham v. AC&S, et al.*, a consolidated asbestos personal injury action involving 300 plaintiffs in the Circuit Court of Harris County, Texas.

Co-lead plaintiffs' counsel in *Abrams v. GAF Corporation*, No. 88-5422(1) (Jackson Cty., Miss.), a consolidated asbestos personal action involving more than 6,000 plaintiffs.

Co-liaison plaintiffs' counsel in 3,000 asbestos personal injury cases in the Third Judicial Circuit of Illinois, Madison County, Illinois.

Co-lead plaintiffs' counsel in a consolidated asbestos personal injury action involving 540 plaintiffs pending in the Superior Court of Alameda County, California.

Counsel in numerous consolidated asbestos trials including 87 consolidated cases in Danville, Illinois; 300 consolidated cases in U.S. District Court, Western District of New York, Rochester, New York; 42 consolidated cases in State Court in Mississippi; and 315 consolidated cases in the Circuit Court of Kanawha County, West Virginia.

Plaintiffs' lead counsel in *In re Kansas Asbestos Cases* in U.S. District Court for the District of Kansas, *In re Madison County Illinois Asbestos Litigation*

Plaintiffs' lead counsel in *In re Wayne County Michigan Asbestos Cases*.

John Schumacher v. Amtico, et al., No. 2:10-1627 (E.D.Pa.), the first federal court mesothelioma case to go to trial before Eduardo C. Robreno, the judge who oversees the entire Federal Asbestos MDL, *In re Asbestos Products Liability Litigation*, MDL 875.

Plaintiffs' Steering Committee of *In re Welding Fume Products Liability Litigation*, MDL 1535

ANTI-TERRORISM AND HUMAN RIGHTS

Lead counsel in *In re Thomas E. Burnett, Sr., et al. v. Al Baraka Investment & Development Corp., et al.*, Case No. 03-CV-9849 (GBD); *In re Terrorist Attacks on September 11, 2001*, MDL 1570 (S.D.N.Y.), a landmark lawsuit against the alleged sponsors of al Qaeda and Osama bin Laden in an action filed on behalf of more than 6,500 family members, survivors, and those killed on 9/11.

Linde et al. v. Arab Bank PLC, No. 1:04-cv-02799 (E.D.N.Y.) and *Almog v. Arab Bank, PLC*, No. 1:04-cv-05564-NG-VVP (E.D.N.Y.), one of the first lawsuits brought against an international bank for its alleged role in financing terrorism.

Mark McDonald, et al. vs. The Socialist People's Libyan Arab Jamahiriya, et al.; No. 06-CV-0729-JR (DC 04/21/06), a high-profile case involving Libya's longtime alleged sponsorship of IRA acts of terror.

Cummock, et al. v. Socialist People's Libyan Arab Jamahiriya, et al., No. 96-CV-1029 (D.D.C.). Victoria Cummock, Motley Rice's client, sought full accountability and a public trial as the only opt-out of the no-fault Pan Am 103/Lockerbie settlement.

Krishanthi, et al. vs. Rajaratnam, et al.; No. 09-CV-5395(D.N.J.), terrorist financing litigation against alleged financiers of the Tamil Tigers terrorist organization in Sri Lanka.

Plaintiffs' Steering Committee and lead counsel for Verizon plaintiffs in *In re National Security Agency Telecommunications Records Litigation*, MDL 1791

Ng v. Central Falls Detention Facility Corporation, et al., No. 09-53 (D. R.I.), a human rights case that alleged the defendants subjected a Chinese immigration detainee to extreme physical and mental abuse and torture while in U.S. custody.

Harris, et al. v. Socialist People's Libyan Arab Jamahiriya, et al., No. 1:06-cv-00732-RWR (D.D.C.), a case filed against Libya involving the 1986 bombing of Berlin's LaBelle Discotheque.

AVIATION DISASTERS AND PASSENGER RIGHTS

Plaintiffs' liaison counsel in *In re September 11 Litigation*, No. 21-MC-97-AKH (S.D.N.Y.), representing 56 of the 96 families that opted out of the no-fault federal September 11 Victim Compensation Fund in liability and damages cases claims against the airlines and aviation security companies for their alleged failure to implement basic security measures.

Amanda Tuxworth v. Delta Air Lines, Inc., No. 2:10-cv-03212-RMG (D.S.C.), an aviation passenger rights case involving a Delta passenger.

Chris Turner, Individually and as Personal Representative of The Estate of Tracy Turner v. Ramo LLC, a Florida Limited Liability Company, No. 11-14066 (Ct. of Appeals, 11th Cir.), an aviation case involving fraudulent transfer allegations in connection with a fatal plane crash.

Counsel for victims of **Asiana Airlines Flight 214**

Counsel for families of victims of **Malaysia Airlines Flight MH370**

BANKRUPTCIES

Coalition of Abused Scouts for Justice in the **Boy Scouts of America and Delaware BSA, LLC Chapter 11 bankruptcy proceedings** (Case No. 20-10343), on behalf of a group of firms representing thousands of survivors

Claimants' committee in *In re A.H. Robins*, a Chapter 11 Reorganization involving Dalkon Shield victims nationwide

Claimants committee in the **Camall Chapter 11**, the first bankruptcy associated with the Fen-Phen litigation

Motley Rice attorneys currently serve as a member of the trust advisory committee for several of the asbestos bankruptcy trusts formed under 524(g) of the federal bankruptcy code:

AC&S, Inc. Bankr., No. 02-12687 (D. Del.)

Armstrong World Industries, Inc., Bankr. No. 00-4471 (D. Del.)

Babcock & Wilcox Co. Bankr., No. 00-10992 (E.D. La.)

Celotex Corp. Bankr., Nos. 90-10016-8B1, 90-10017-8B1 (M.D. Fla.)

Dresser II Bankr., No. 03-35592 (W.D. PA.)

Federal Mogul Bankr., No. 01-10578 (D. Del)

G-I Holdings Bankr., Nos. 01-30135 and 01-38790 (D.N.J.)

Johns-Manville Corp., No. 82-B11656 through 82 B 11676 (S.D.N.Y., E.D.N.Y.)

Kaiser Aluminum Corp. Bankr., No. 02-10429 (D. Del.)

Keene Bankr., No. 93B 46090,96 CV 3492 (S.D.N.Y.)

MH Detrick Bankr., No. 98 B 01004 (N.D. Ill.)

Owens Corning Corp. Bankr., No. 00-03837 (D. Del.)

Rock Wool Bankr., Nos. CV-99-J-1589-S.BK -96-08295-TBB-11 (N.D. Ala.)

Rutland Fire Clay Bankr., No. 99-11390 (D. Vt.)

Shook & Fletcher Bankr., No. 02-02771-BGc-11 (N.D. Ala.)

United States Gypsum Corp. Bankr., No. 01-2094 (D. Del.)

W.R. Grace Co. Bankr., Nos. 01-1139, 01-1140 (D. Del.)

Motley Rice attorneys have served as lead or co-lead trial counsel on behalf of The Asbestos Claims Committee:

Armstrong World Industries, Inc., Bankr. No. 00-4471 (D. Del.) (estimation trial and plan confirmation trial)

Federal Mogul Bankr., No. 01-10578 (D. Del.) (estimation trial and plan confirmation trial)

Owens Corning Corp. Bankr., No. 00-03837 (D. Del.) (estimation trial and substantive consolidation trial)

Pittsburgh Corning Corp. Bankr., No. 00-22876 (W.D. Pa.) (plan confirmation trial)

W.R. Grace Co. Bankr., Nos. 01-1139, 01-1140 (D. Del.) (estimation trial and plan confirmation trial)



Motley Rice attorneys have served on The Asbestos Claims Committee involved in the formation and confirmation of various asbestos bankruptcy trusts.

AC&S Bankr., No. 02-12687 (D. Del.)

Babcock & Wilcox Bankr., No. 00-10992 (E.D. La.)

Celotex Bankr., Nos. 90-10016-8B1, 90-10017-8B1 (M.D. Fla.)

Combustion Engineering Bankr., D. Del. No. 03-10495 (D. Del.)

Congoleum Corp. Bankr., No. 03-51524 (D.N.J.)

Durabla Corp. Bankr., No. 09-14415 (D. Del.)

Federal Mogul Bankr., No. 01-10578 (D. Del.)

G-I Holdings Bankr., Nos. 01-30135 and 01-38790 (D. N.J.)

Johns-Manville Corp., No. 82-B11656 through 82 B 11676 (E.D.N.Y.)

Keene Bankr., No. 93B 46090, 96 CV 3492 (S.D.N.Y.)

MH Detrick Bankr., No. 98 B 01004 (N.D. Ill.)

North American Refractories Corp. Bankr., No. 02-20198 (W.D. Pa.)

Owens Corning Corp. Bankr., No. 00-03837 (D. Del.)

Pittsburgh Corning Corp. Bankr., No. 00-22876 (W.D. Pa.)

Rock Wool Bankr., Nos. CV-99-J-1589-S.BK-96-08295-TBB-11 (N.D. Ala.)

Rutland Fire Clay Bankr., No. 99-11390 (D. Vt.)

Shook and Fletcher Bankr., No. 02-02771-BGc-11 (N.D. Ala.)

United States Gypsum Corp. Bankr., No. 01-2094 (D. Del.)

W.R. Grace Co. Bankr., No.s 01-1139, 01-1140 (D. Del.)

Vincent L Greene IV | vgreen@motleyrice.com

Attorney with 25 years of experience, representing clients from multiple states in complex litigation and mass tort actions.

CAREER HIGHLIGHTS

- Litigates on behalf of states and municipalities ravaged by the opioid epidemic. Critical part of trial teams in Rhode Island, New Hampshire, West Virginia, Washington, Boston and the Opioids MDL including CT7 (Montgomery County, Ohio).
- Litigates on behalf of patients who suffered severe health complications caused by allegedly defective mesh products, including Composix® Kugel® Mesh patches and other hernia mesh products, as well as transvaginal mesh. The Composix Kugel cases created the first Hernia MDL in the country, MDL 1842, resulting in the trial of two bellwether cases before resolution of the consolidated action.
- Represents workers and families suffering from mesothelioma and other asbestos-related diseases as a result of occupational, environmental or household exposure to asbestos. First chair trial experience in multiple states, and experience as lead litigation and settlement counsel on behalf of hundreds of individuals. This experience includes arguing before the Supreme Courts of Ohio and Rhode Island, as well as Ohio Appellate Courts.
- Represents children and families poisoned by exposure to lead paint and pigments in trials, negotiations and settlements across the country, included significant work in Ohio. This work includes achieving a rare jury verdict and compensatory damages in 2015 for a Rhode Island woman who suffered cognitive defects due to lead exposure as a child.
- Performed a critical role in defeating tort reform legislation in Rhode Island, utilizing testimony, analysis and grassroots outreach to push passage of a bill that helped prevent childhood lead poisoning without infringing on victims' rights.
- Part of the legal team that negotiated a Master Settlement Agreement in the 1997 landmark litigation against the tobacco industry

WORK EXPERIENCE

Motley Rice, LLC

Providence, RI

Member | 2008 – present

Associate | 2004 - 2008

Ness Motley P.A.

Mount Pleasant, SC/Providence, RI

Associate | 1997 – 2004

EDUCATION

George Washington University Law School

Juris Doctorate, May 1998

College of the Holy Cross

Bachelor of Arts, May 1995

LITIGATION LEADERSHIP

- *State of Rhode Island v Purdue Pharma L.P.; et al., PC-2018-4555 (Lead Litigator)*

- *The City of Boston, et al. v Purdue Pharma L.P.; et al.*, 1884-CV-02860-BLS2 (Chosen as counsel for Boston and chosen as co-lead for one of two bellwether cases in a 14 case consolidation)
- *State of New Hampshire v Johnson and Johnson, et al.* 217-2018-CV-000678 (Plaintiffs' Co-Lead Litigation Counsel)

COURT & BAR ADMISSIONS

- Rhode Island, 1998
- U.S. District Court, District of Rhode Island, 1999

AWARDS

- **Beyond the Call of Duty Award** 2001 the Childhood Lead Action Project
- **Best Lawyers®** 2017–2023 Product liability litigation – plaintiffs
- **Best Lawyers® 2023** Consumer Protection Law
- **Lawdragon** 2020–2023 Lawdragon 500 Plaintiff Consumer Lawyers
- **Rhode Island Super Lawyers®** lists 2014–2022 Personal injury – products: plaintiff; Class action/mass torts; Environmental litigation
- **Benchmark Plaintiff** 2012–2014 Rhode Island “Litigation Star”: environmental, medical malpractice, toxic tort
- **The Legal 500 United States** 2010 Mass tort and class action: plaintiff representation – toxic tort
- **Martindale-Hubbell®** AV® rated attorney

PUBLICATIONS

- Greene, Vin (2011) "Federal Rule of Evidence 407 Versus Rhode Island's Rule 407: Public Policy Versus Relevance," *Roger Williams University Law Review*: Vol. 16: Iss. 3, Article 4

ASSOCIATIONS

- **American Association for Justice**
- **American Civil Liberties Union**
- **Rhode Island Association for Justice**, President - 2015
- **Rhode Island Center for Justice**¹, Board Member, Finance Committee Chair, Treasurer

¹ The Rhode Island Center for Justice is a non-profit law center advocating for workers' rights and other public interest issues.

SEEGERWEISS LLP

March 15, 2023

Honorable Benita Y. Pearson
U.S.D.C., Northern District of Ohio
313 Thomas D. Lambros United States Federal Building and Courthouse
125 Market Street
Youngstown, Ohio 44503-1780

Re: JON LUKE AFFELTRANGER and COMPETITION & LUXURY VEHICLE CLUB OF DARLINGTON LLC, individually and on behalf of all others similarly situated, v. NORFOLK SOUTHERN CORPORATION; and NORFOLK SOUTHERN RAILWAY COMPANY, Case No. 4:23-cv-00440

Application for Appointment to Plaintiffs' Executive Committee

Dear Judge Pearson:

I respectfully submit this Application for appointment to the Plaintiffs' Executive committee. My firm has been retained by Plaintiffs in the above-captioned case and is investigating claims of many impacted residents in and around East Palestine. Enclosed is a copy of my firm's resumé (Exhibit A) and list of counsel supporting my application (Exhibit B).

I am a founding partner of Seeger Weiss LLP. Our firm is broadly regarded as one of the nation's preeminent trial law firms, with an established track record of helping lead some of the most complex and impactful cases on behalf of injured parties. Our cases frequently are at the forefront of the law on issues of importance to our communities, whether redressing the Opioid epidemic, obtaining life-changing benefits for former NFL players and their families, litigating on behalf of thousands of veterans injured by 3M's defective earplugs, seeking long-overdue justice for the family of Henrietta Lacks, or, here, holding Defendants accountable for the damage they have caused to the people of East Palestine and the surrounding area.

During the past 25 years, I have had the privilege to lead some of the most groundbreaking and socially consequential litigations in the U.S., securing key jury verdicts and negotiating innovative, effective mass- and class-action settlements collectively (and at times individually) recovering tens of billions of dollars for injured or aggrieved individuals.

In the NFL Concussion Litigation, in which I served as Co-Lead Counsel, the Hon. Anita B. Brody wrote that the "successful implementation of the [NFL] settlement agreement to date is a credit to the work done by the attorneys at Seeger Weiss." Regarding my work in the Syngenta litigation, Special Master Ellen Reisman wrote, "Mr. Seeger served ably as the chair of the [Plaintiffs' Settlement Negotiating Committee], keeping discussions going even when they (frequently) seemed in danger of breaking down. It is the judgment of Special Master Reisman and Special Master Stack that without Mr. Seeger's involvement in the process, a resolution would not have been reached." In adopting

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Special Master Reisman's report in Syngenta, Hon. John Lungstrum wrote that I "contributed more than any other attorney in accomplishing the settlement of the litigation."

I believe that one of my greatest strengths is my ability to build broad consensus, in bringing together diverse plaintiffs, in generating agreement among peer and rival firms, and in unifying leadership groups of all sizes. I recognize the importance of taking reasonable positions in negotiations, whether with opposing parties and counsel, or with different factions of plaintiffs and co-counsel. The Syngenta litigation, for example, required delicate negotiations that spanned several jurisdictions, and required me to balance the interests of many different constituencies, including federal and state classes as well as tens of thousands of individual plaintiffs. The interests of these plaintiff constituencies were not always neatly aligned, and failure to bring any of them into the fold would have derailed the prospects for a global settlement. In addition to bringing various plaintiff groups to consensus, I also had to build trust with court-appointed mediators and with Syngenta itself, which had fought the litigation spiritedly. I brought these disparate interests together to achieve a \$1.51 billion settlement.

Relevant Experience and Court Appointments

I bring to this matter insights gained from my work as court-appointed Co-Lead Counsel for the plaintiffs in the *NFL* litigation. The case presented significant legal and procedural challenges, including federal preemption, causation, and sub-classing issues. It was a potential quagmire that could have delayed the relief our class members urgently needed. As chief negotiator, I navigated these complexities and successfully led settlement negotiations to obtain an uncapped monetary award fund that to date has resulted in the distribution of over \$1 billion and a medical testing program for thousands of former NFL players—results overwhelmingly supported by the class.

I served on the PSC and Settlement Committee in *In re Volkswagen "Clean Diesel" Mktg., Sales Practices and Prods. Liab. Litig.*, MDL No. 2672 (N.D. Cal.). My colleagues and I worked intensively for the better part of a year to obtain comprehensive settlements with Volkswagen worth more than \$20 billion for class members (including an optional "buyback" program), plus billions more in environmental relief. Volkswagen, and not the class members, paid class counsel's fees and costs. Similarly, in *In re Zyprexa Prods. Liab. Litig.*, MDL No. 1596 (E.D.N.Y.), in which I was appointed as Liaison Counsel, I was one of the chief negotiators of a \$700 million settlement, followed by a \$500 million second-round settlement that benefitted tens of thousands of individuals, where I uniquely served as a liaison between plaintiffs' and defense counsel. For the past several years, I've served on the court-appointed PEC and Negotiating Committee in *In re National Prescription Opiate Litig.*, MDL No. 2804 (N.D. Ohio), in which I also served as Co-Lead Counsel for an innovative Negotiation Class. To date, our Committee (along with State Attorneys General) has secured global settlements that will provide over \$40 billion in gravely-needed funding to help abate the Opioid epidemic. I also serve as court-appointed Interim Co-Lead Counsel in *In re 3M Combat Arms Earplug Prods. Liab. Litig.*, MDL No. 2885 (N.D. Fla.); *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litig.*, MDL 3014 (W.D. Pa.); and *Lindsay Aberin v. American Honda Motor Company, Inc.*, Case No. 16-cv-04384-JST (N.D. Cal.).

Even when I have not been selected for a leadership role, courts and peers have called on me to "unofficially" lead negotiations. For example, in the *Syngenta* litigation, although I was not appointed to the PSC, I was made the chair of the Negotiating Committee by Judge Lungstrum, resulting in a \$1.51 billion nationwide settlement.

Hon. Benita Y. Pearson
March 15, 2023, Page 3

My success at the negotiating table is built on my success in the courtroom. Counsel know I am willing and able to take large, complex cases to trial. On many occasions, my bellwether trial successes have led to global settlements. For example, *In re Vioxx Prods. Liab. Litig.*, MDL No. 1657 (E.D. La.), in which I was appointed as Co-Lead Counsel, settled for \$4.85 billion just months after my colleagues and I obtained a \$47.5 million bellwether jury verdict. Similarly, in *In re Chinese-Manufactured Drywall Prods. Liab. Litig.*, MDL No. 2047 (E.D. La.), I was appointed Chair of the Plaintiffs' Trial Committee and lead trial counsel in a string of bellwether trials. The successful verdicts in those cases paved the way for a national settlement valued at approximately \$1 billion.

Judges familiar with my work include: *Vioxx & Chinese-Manufactured Drywall*: Hon. Eldon E. Fallon, 504-589-7545; *Volkswagen "Clean Diesel"*: Hon. Charles R. Breyer, 415-522-2062; *NFL Players' Concussion Injury*: Hon. Anita B. Brody, 215-597-3978; *Syngenta*: Hon. John W. Lungstrum, 913-735-2320; *Endress v. GM & Aherin v. Honda*: Hon. Jon S. Tigar, 510-637-3547; *3M Combat Earplugs Litig.*: Hon. M. Casey Rodgers, 850-435-8448; *CPAP*: Hon. Joy Flowers Conti, 412-208-733; *Elmiron & Invokana*: Hon. Brian Martinotti, 973-645-6651; *Social Media*: Hon. Yvonne Gonzalez Rogers, 510-637-3540.

Willingness and Ability to Commit the Required Time and Resources

My firm possesses ample personnel, funding, and other resources to prosecute this matter in a timely and efficient manner. In addition to our time, we have invested millions of dollars in cases in which we have leadership positions. As my track record demonstrates, I will prioritize the interests of all claimants and am personally ready, able, and eager to commit to whatever path is needed to obtain the most favorable outcome in this litigation—trial, negotiation, or both. Our team includes my partner Matt Pawa, who is chair of the firm's environmental practice group and a pioneer in the field of environmental litigation with broad and deep experience in cleanup and damages actions, including against oil companies for polluting New Hampshire groundwater, against 3M and Du Pont for contamination of Vermont state resources with PFAS chemicals, and against Monsanto for pollution of states' and cities' waterways with PCBs. Our team also includes my partner Dave Buchanan, whose decades of experience in Mass Torts include serving as trial counsel in bellwether cases in *In re Vioxx*, and *In re TRT*, and on Plaintiffs' executive and steering committees in the NFL litigation, *In re Vioxx*, and *In re National Prescription Opiates*. Most recently, Mr. Buchanan served as lead trial counsel in several bellwethers in *In re 3M*, where he was also the Co-Chair of the Plaintiffs' Steering Committee. Mr. Buchanan and our associate and team member Max Kelly led general discovery and pretrial practice in that litigation, and their trial successes included a \$55 million verdict for a former army ranger suffering from hearing loss and tinnitus.

Cooperation With Other Counsel

With each appointment, a court entrusts leadership with the responsibility to lead the litigation efficiently and effectively. I maintain the highest standards of ethics and collegiality and expect no less from my colleagues. My commitment to effective cooperation is shown by the settlements I have helped broker in even the most high-pressure, publicly scrutinized cases.

I believe deeply that, when carried out with skill, mutual respect, and common sense, litigation serves a critical role in our democracy. I am therefore committed to sharing the experience, knowledge, and insight I have gained with my current and future colleagues by teaching, speaking, and writing on mass torts, MDLs, and class actions, as outlined in my resumé. Equally important, I am focused on ways to *improve* how the bar and the bench work together to best achieve the end goal—ensuring that

Hon. Benita Y. Pearson
March 15, 2023, Page 4

wronged parties get fair and effective representation and relief. Toward that end, I serve on the Board of Advisers for the Center on Civil Justice at New York University School of Law and the Leadership Council for the Bolch Center at Duke Law School, through which my colleagues and I contribute to the development of best practices for MDLs.

I would be honored to serve the interests of the plaintiffs in these cases.

Respectfully,

A handwritten signature in blue ink, enclosed in a blue oval. The signature reads "CHRISTOPHER A. SEEGER".

CHRISTOPHER A. SEEGER

Firm Overview

Seeger Weiss is one of the preeminent trial law firms in the nation, known for its high-stakes, landmark verdicts and settlements in multidistrict mass tort and class action litigation on behalf of consumers, athletes, farmers, municipalities, and other injured parties. Headquartered in Ridgefield Park, New Jersey, the firm has led and tried some of the most complex and high-profile litigations in the U.S. in both state and federal courts, including multiple bellwether trials, since its founding in 1999.

Professionals

Managing Partner(s): Christopher A. Seeger, Stephen A. Weiss, David R. Buchanan

Number of partners: 12

Number of lawyers: 39

Languages: English, Hindi, Korean, Russian, Spanish, Urdu

Representative Matters

Consumer Protection/Product Liability:

- *In Re: Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*: Co-Lead Counsel prosecuting product liability claims arising from social media applications.
- *In re 3M Combat Arms Earplug Prods. Liab. Litig.*: Co-Lead Counsel prosecuting product liability claims arising from medical product.
- *In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litig.*: Co-Lead Counsel prosecuting product liability claims arising from medical product.
- *In re Nat'l Prescription Opiate Litig.*: Plaintiffs' Executive Committee prosecuting nuisance, negligence, fraud, and related claims.
- *In re Intel Corp. CPU Mktg., Sales Practices and Prods. Liab. Litig.*: Co-Lead Counsel prosecuting consumer fraud, product defect and related claims.
- *In re Davol, Inc./C.R. Bard Inc. Polypropylene Hernia Mesh. Prods. Liab. Litig.*: Executive Committee prosecuting product liability claims arising from medical product.
- *Volkswagen "Clean Diesel" Marketing, Sales Practices and Prods. Liab. Litig.*: Steering Committee. Over \$20 billion settlement on behalf of over 500,000 plaintiffs.
- *In re Mercedes-Benz Emissions Litig.*: Co-Counsel prosecuting class action alleging consumer fraud, RICO, and related claims.
- *Fenner v. General Motors Co.*: Co-Counsel prosecuting class action alleging consumer fraud, RICO, and related claims.
- *In re Syngenta AG MIR 162 Corn Litig.*: Member of Plaintiffs' Executive Committee that obtained certification of 8 statewide and 1 nationwide class, and Member of Plaintiffs' Settlement Negotiating Committee & principal negotiator. \$1.51 billion nationwide settlement.

- *In re FieldTurf Artificial Turf Mktg. & Sales Litig.*: Co-Lead Counsel prosecuting fraud, product defect, and related claims.
- *Chinese-Manufactured Drywall Prods. Liab. Litig.*: Lead trial counsel & Trial Committee chair. Over \$1 billion settlement on behalf of nearly 5,000 plaintiffs.
- *Depuy Orthopaedics, Inc. ASR Hip Implant Prods. Multidistrict Litig.*: Executive Committee. \$2.5 billion settlement.

Personal Injury:

- *In re NFL Players' Concussion Injury Litig.*: Co-lead counsel & chief negotiator. Over \$1 billion uncapped settlement fund plus medical testing program on behalf of over 20,000 plaintiffs.
- *Wildcats Bus Crash Litig.*: Lead counsel. \$2.25 million verdict followed by \$36 million settlement on behalf of 11 plaintiffs.

Drug Injury:

- *In re Proton-Pump Inhibitor Prods. Liab. Litig. (No. II)*, MDL No. 2789 (D.N.J.): Co-Lead Counsel representing individuals injured by gastric acid reduction medication.
- *In re Testosterone Replacement Therapy Prods. Liab. Litig.*: Co-lead counsel & lead trial counsel representing individuals injured by testosterone medication.
- *In re Invokana Prods. Liab. Litig.*: Co-lead counsel representing individuals injured by diabetes medication.
- *Vioxx Prods. Liab. Litig.*: Co-lead counsel. \$4.85 billion global settlement on behalf of more than 45,000 plaintiffs in approximately 27,000 claims.
- *Zyprexa Prods. Liab. Litig.*: Liaison counsel. \$700 million first-round settlement and \$500 million second-round settlement.
- *Kendall v. Hoffman-La Roche, Inc.*: Co-trial counsel. \$10.6 million verdict on behalf of plaintiff.
- *McCarrell v. Hoffman-La Roche, Inc.*: Liaison counsel. \$25.16 million verdict on behalf of plaintiff.
- *Rossitto & Wilkinson v. Hoffmann La Roche, Inc.*: Lead trial counsel. \$18 million verdict on behalf of two plaintiffs.
- *Accutane Litigation*: Lead trial counsel. \$25.5 million verdict on behalf of plaintiff.
- *Humeston v. Merck & Co.*: Co-trial counsel. \$47.5 million verdict on behalf of plaintiff.
- *Vytorin/Zetia Marketing, Sales Practices and Prods. Liab. Litig.*: Co-liaison counsel & principal negotiator. \$41.5 million settlement.
- *Phenylpropanolamine (PPA) Prods. Liab. Litig.*: Co-lead counsel & principal negotiator. \$41.5 million nationwide settlement.

Antitrust:

- *In re German Automotive Mfrs. Antitrust Litig.*: Plaintiffs' Steering Committee prosecuting consumer antitrust claims.
- *In re Liquid Aluminum Sulfate Antitrust Litig.*: Plaintiffs' Steering Committee prosecuting antitrust class action on behalf of water treatment chemical purchasers.
- *In re Polyurethane Foam Antitrust Litig.*: Executive Committee. Approximately \$428 million settlement on behalf of plaintiffs.

Toxic Exposure:

- *Bayer CropScience Rice Contamination MDL*: Executive Committee. \$750 million settlement.
- "StarLink" Corn Products Litig.: Co-lead counsel. \$110 million settlement.
- *Owens v. ContiGroup Companies*: Lead trial counsel. \$11 million settlement for 15 plaintiffs.



MIKAL C. WATTS
Attorney at Law
mcwatts@wattsguerra.com

Board Certified Personal Injury Trial Law
Texas Board of Legal Specialization

Millennium Park Plaza RFO
15 Calle 2, Suite 410
Guaynabo, Puerto Rico 00966
www.wattsguerra.com

FILED VIA CM/ECF

October 20, 2022

Hon. Benita Y. Pearson
United States District Judge
313 Thomas D. Lambros
United States Federal Building & Courthouse
125 Market Street
Youngstown, OH 44503-1780

Re: Leadership Application, re:
Norfolk Southern East Palestine Train Derailment Litigation,

Dear Judge Pearson:

Please accept this letter application of Mikal Watts of the firm WATTS GUERRA LLC Conroy ("WG"), for a leadership position in the coordination proceedings regarding the *Norfolk Southern East Palestine Train Derailment Litigation*. As described below, Mr. Watts is exceptionally qualified to serve this Court considering his significant experience in numerous other MDLs and his continued selection by federal courts to fulfill leadership roles in those cases. In addition, WG can and will bring the necessary resources to a case that will likely be both complicated and expensive to litigate.

Courts typically identify six criteria to consider in reviewing applications. Each is addressed in turn.

1. Professional Experience with MDLs: Ms. Watts has extensive experience with complex litigation over more than two decades. Mr. Watts has been appointed to leadership positions in numerous MDLs. He has served on the Plaintiff Steering Committee ("PSC") in *In Re: FEMA Trailer Formaldehyde Products Liability Litigation*, MDL 1873, *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico* (MDL 2179), *In re: Valsartan N-Nitrosodimethylamine (NDMA) Contamination Products Liability Litigation* (MDL 2875), *In re: Texas Opioid Litigation* (Texas MDL No. 18-0358), *In re: Juul Labs, Inc.* (MDL 2913), *In re: Zantac Products Liability Litigation* (MDL 2924), *In re: Paraquat Cases* (JCCP 5031) (court-appointed PSC) and in *In re: Hair Relaxer Marketing Sales Practices and Products Liability Litigation* (MDL 3060), and co-liaison counsel in *In re: Kincaid Fire* (JCCP 5157); *In re: Zogg Fire* (JCCP 5165) *In re: Bobcat Fire* (20STCV42356-lead case) and *In re: Dixie Fire* (JCCP 5208). Mr. Watts has also served as co-lead counsel *In Re: Acetaminophen – ASD/ADHD Products Liability Litigation* (MDL 3043), *In re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation* (MDL 2385) and in *In Re: Stand 'N Seal* (MDL 1804), and as co-

liaison counsel, *In Re: Silica* (MDL 1553). Members of WATTS GUERRA served as co-lead counsel in *In Re Incretins Mimetech Products Liability Litigation* (MDL 2452) and *In re: Syngenta Litigation* (Minnesota Consolidated MDL).

In addition to prior membership on PSCs, Mr. Watts has personally tried as lead trial counsel the “first in the nation” trial cases for major pharmaceutical and product liability litigations consolidated into MDLs, including trial of the first *Ford/Firestone* tire lawsuit (see MDL 1373); the first *Rezulin* plaintiffs’ verdict (see MDL 1348); the only plaintiffs’ verdict in *Sulzer* hip implants (see MDL 1401); trial of first *Baycol* case (see MDL 1431); trial of first welding rods case during MDL 1525; trial of two bellwether cases during *In re Vioxx* (see MDL 1657); and the only Plaintiffs’ verdict during *In Re: Levaquin* (see MDL 1943). Collectively, Mr. Watts’ firm has achieved verdicts more than \$1.6 billion (including four 9-figure verdicts and 23 verdicts of \$10 million or more), and total recoveries for its clients exceeding \$4 billion.

Mr. Watts also has substantial experience in negotiation the settlement of complex mass torts. In 2019, retired bankruptcy judge Randall Newsome, the court-appointed mediator, in *In Re: PG&E Corp., Bankruptcy Case No. 19-30088* (arising from *In re: California North Bay Fires Cases* (JCCP 4955)), appointed Mr. Watts to the four-person Plaintiffs’ Negotiating Team that secured a \$13.5 billion settlement with PG&E for more 70,000 wildfire victims. In 2017, Judge John W. Lungstrum, D. Kanas, appointed Mr. Watts to the four-person Plaintiffs’ negotiating team in *In Re: Syngenta Corn*, that achieved a \$1.5 billion settlement for more than 200,000 farmers across the United States. In 2014, Judge David Herndon of the Southern District of Illinois appointed Mr. Watts to the Plaintiffs’ Negotiating Team in *In Re: Pradaxa*, where we achieved a \$650 million settlement before the first bellwether trial in just twenty months following the formation of MDL 2385. Recently, as a member of the PSC of the Texas state court MDL in the Opioids litigation, Mr. Watts worked as the liaison to the federal MDL Plaintiffs Executive Committee in *In re: National Prescription Opioid Litigation* (MDL 2804) to settle the litigation against opioids manufacturers such as Purdue Pharmaceuticals and Johnson & Johnson, and opioid distributors Amerisource Bergen, Cardinal Health and McKesson. federal MDL co-lead Joe Rice, and court-appointed special master Francis McGovern, to fashion nationwide settlement solutions in *In re: National Prescription Opioid Litigation* (MDL 2804). Most recently, Mr. Watts has worked to achieve global resolutions out of bankruptcy court regarding LTL Management LLC and Johnson & Johnson’s talc/ovarian cancer liabilities arising from J&J baby powder, and regarding Aearo Technologies LLC and 3M Company’s hearing loss/tinnitus liabilities from the CAEv2 Combat Arms earplugs.

A list of Mr. Watts’s career MDL appointments are included in his CV, which is included as Exhibit B.

2. Names and Contact Information of Mass Tort Judges & Settlement Masters

Hon. John R. Tunheim – *In Re: Levaquin Products Liability Litigation* (MDL No. 1943). Over three weeks, Mr. Watts tried to a plaintiffs’ verdict of actual and punitive damages the

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first bellwether case in the country, *John Schedin v. Johnson & Johnson, et al.*, No. 08-5743, D. Minn., involving tendon ruptures caused by Levaquin. Judge Tunheim may be reached via email at [tunheim chambers@mnd.uscourts.gov](mailto:tunheim_chambers@mnd.uscourts.gov); (612) 664-5080.

Hon. Randall Newsome – *In Re: PG&E Corp.*, Bankruptcy Case No. 19-30088 (arising from *In re: California North Bay Fires Cases* (JCCP 4955)). Judge Newsome appointed Mr. Watts to lead settlement negotiations on behalf of the Plaintiffs, which led to the bankruptcy plan of reorganization yielding \$13.5 billion for plaintiffs. Judge Newsome may be reached via email at ranjack58@comcast.net; (415) 982-5267.

Randi Ellis – Ms. Ellis has worked with Mr. Watts on the settlement of multiple mass torts, including *In re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation* (MDL 2385), *In re: Texas Opioid Litigation* (Texas MDL No. 18-0358), and is presently working with Mr. Watts in efforts to settle talc, ovarian cancer cases, LTL Management LLC, 21-30589 (MBK), In the United States Bankruptcy Court for the District of New Jersey, and 3M CAEv2 Combat arms hearing loss and tinnitus cases, *In re: Aearo Technologies LLC*, Case No. 22-02890-JJG-11, In the United States Bankruptcy Court for the Southern District of Indiana. Ms. Ellis may be reached via email at randi@randiellis.com; (225) 803-1413.

3. Willingness and ability to immediately commit to time-consuming litigation:

WG now employs 146 staff, including 50 attorneys, who handle complex commercial, product liability and injury litigation. WG has offices in California, Oregon, New Mexico, Texas, Ohio and Puerto Rico. This train derailment litigation is our highest priority, and if appointed as a member of the PEC, I am ready, willing, and able to commit all our firm's time, money and effort required to timely fulfill my obligations in connection with my appointment. Mr. Watts is familiar with the demands of such cases and can represent to the Court that she is fully able to take on whatever level of responsibility this Court deems appropriate.

4. Willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel:

In his role as co-lead counsel, lead trial counsel and settlement liaison in past and present MDLs, Mr. Watts has had the opportunity to work with a host of conflicting and competing groups. In this case, for example, Mr. Watts has attended an in-person meeting concerning organizing this tort in Cleveland, and numerous ZOOM meetings on the science and liability behind this case. Mr. Watts has worked with the proposed co-lead counsel and other law firms to formulate a large slate for your Honor's consideration.

In addition to his work as lead trial counsel in complex-commercial and personal-injury litigation, Mr. Watts has taken a central role in resolving various complex, national multi-district litigations ("MDLs"). For example, this month, Mr. Watts worked with other Plaintiffs' counsel and settlement counsel for the defense to attempt to fashion global resolutions of the talc ovarian cancer litigation against LTL and Johnson & Johnson and the CAEv2 Combat Arms earplug litigation against Aearo Technologies and 3M Company. Recently, in *In re National Prescription Opiate Litig* (MDL 2804), Mr. Watts

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served as a liaison between hundreds of sovereign state litigants, state attorneys general, members of MDL plaintiffs' leadership, and various defendants to settle thus more than \$40 billion in claims, thus reducing the scope of the *Opioids* MDL, and putting this complex case on a path to a global resolution. Similarly, in *In re: PG&E Corp.* (No. 19-30088-DM), in which he represented more than 16,000 victims of California wildfires sparked by PG&E equipment, Mr. Watts served as the liaison between PG&E stakeholders (e.g., equity, secured lenders, and unsecured lenders, and other participants in the PG&E bankruptcy) to structure and to win support their plan that enabled PG&E to emerge from bankruptcy as a going concern, and to transfer to the resulting Fire Victims Trust approximately \$13.5 billion in settlement proceeds. At present, WG is resolving more than 16,000 claims in connection with that Trust, resulting in more than $\frac{1}{4}$ of its payments being made to our firm's survivors of PGE-caused 2017 and 2018 fires settled in bankruptcy court in calendar year 2020. In each case, Mr. Watts details each constituency's priorities and work towards consensus, issue by issue, and believes that working cooperatively with others is a harbinger of an efficient resolution of complex mass tort cases.

Mr. Watts' ability to work cooperatively with others is also reflected in his active involvement in professional legal organizations meant to facilitate the same. Mr. Watts is a longtime member of the Executive Committee and Board of Directors of Texas Trial Lawyers Association ("TTLA") and once served in the same capacities for the Attorneys Information Exchange Group ("AIEG"). Mr. Watts is a member of the Inner Circle of Advocates, comprised of 100 trial attorneys who meet frequently to exchange information to improve their skills and courtroom work product.

Finally, Mr. Watts is an AV Rated Lawyer by Martindale-Hubbell, and is board certified in Personal Injury Trial Law by the Texas Board of Legal Specialization. Mr. Watts has given hundreds of CLE presentations and have co-authored a book published by the American Bar Association, entitled "TRIAL – A Guide from Start to Finish – Perspectives from Opposing Counsel."

5. Access to resources available to prosecute this litigation in a timely manner:

Mr. Watts is responsible for prioritizing the work of my WG. WG consistently commits extraordinary economic and human resources to represent its clients, winning for them billions of dollars in gross settlements. WG has capital facilities providing our firm with available investment dollars in the nine-figures. WG will commit all resources required to prosecute and resolve this litigation in the manner it deserves.

6. Willingness to serve as lead counsel, a member of a steering committee, or both:

While Mr. Watts is willing to serve in whatever capacity the Court thinks is appropriate, he believes that the most appropriate role for her in this litigation is as a member of the Plaintiffs' Executive Committee.

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7. Other Considerations: Concerning diversity, Watts Guerra reflects diversity in gender, ethnicity and age.

Concerning gender, Watts Guerra, has 50 attorneys, 25 of whom are women. Partner Alicia O'Neill is the managing partner of the law firm's mass tort section, and she is and will remain heavily involved in this litigation, working with Mr. Watts' daughter Hailey Watts who will do the same. The law firm's Puerto Rico mass tort office employs eight women attorneys who will work on this litigation. For more details in connection with the law firm, see <https://www.wattsguerrallc.com/>.

Concerning ethnicity, Watts Guerra founding partners Mikal Watts Francisco Guerra IV each present diversity as Mr. Watts presents maternal Puerto Rican heritage and Mr. Guerra presents maternal and paternal Mexican American heritage. Further, the law firm has eight attorneys in Puerto Rico who will work on this litigation, including Astrid Reyes Baez, Paola Gonzalez, Natalia Barquet Hornback, Jeasette Berrios-Martinez, Natalia and Veronika Banuchi Ponce, Adriana Cordero Suau, Cristina Quiles Torres, and Jennifer Miranda Torres.

Concerning age, Hailey Watts, age 26, daughter of Mr. Watts, joined the law firm in March 2023, and she will be assigned to this litigation. Further, the law firm has assigned eight additional attorneys under 40 to this litigation: Ms. Baez, age 26; Ms. Gonzalez, age 26; Ms. Hornback, age 36; Ms. Berrios-Martinez, age 32; Ms. Ponce, age 27; Ms. Suau, age 27; Ms. Torres, age 30; and, Ms. Torre, age 31.

Finally, Mr. Watts' application to serve as a member of the Plaintiffs' Executive Committee is supported by the plaintiffs' counsel listed on the attached Exhibit A, and Mr. Watts likewise supports the application of those attorneys for the appointments listed there. Mr. Watts knows those lawyers and law firms well, has worked with many of them in prior MDLs, and can assure the Court that this MDL would be well-served by those appointments.

Respectfully submitted,

Mikal C. Watts

Mikal C. Watts

MIKAL WATTS | mcwatts@wattsguerra.com

Attorney with 33 years of experience, representing clients from all 50 states in complex litigation and mass tort actions.

CAREER HIGHLIGHTS

- Appointment as Co-Lead Counsel in the Acetaminophen-ASD/ADHD Products Liability Litigation (MDL 3043), In re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation (MDL 2385) and in In Re: Stand N Seal (MDL 1804).
- Represented over 16,000 victims of the 2017-18 northern California wildfires started by utility equipment of Pacific Gas & Electric; negotiated a global settlement via its bankruptcy plan of reorganization resulting in \$13.5 billion paid to fires survivors via the Fire Victims Trust.
- Lead settlement counsel for Texas' political subdivisions, working with the federal MDL in In re: National Prescription Opiate Litigation, MDL 2804 (S.D. N.Y.), which resulted in billions of dollars in settlements to help communities abate the opioid crisis
- Lead trial counsel in the first Plaintiff bellwether verdicts in first *Ford/Firestone* tire lawsuit (see MDL 1373); the first *Rezulin* plaintiffs' verdict (see MDL 1348); the only plaintiffs' verdict in *Sulzer* hip implants (see MDL 1401); trial of first *Baycol* case (see MDL 1431); trial of first welding rods case during MDL 1525; trial of two bellwether cases during *In re Vioxx* (see MDL 1657); and the only Plaintiffs' verdict during *In Re: Leraquin* (see MDL 1943).
- Appointed to 18 multidistrict litigation/state consolidation proceedings plaintiff leadership positions.

WORK EXPERIENCE

Watts Guerra, LLC

Named Partner/Founder | March 2021 – present

Guaynabo, Puerto Rico

Watts Guerra, LLP

Named Partner/Founder | March 2013 – present

San Antonio, Texas

Watts, Guerra Craft, LLP

Named Partner/Founder | January 2009 - March 2013

San Antonio, Texas

Watts Law Firm, LLP

Named Partner/Founder | August 2002 - January 2009

Corpus Christi, Texas

San Antonio, Texas

Watts & Heard, LLP

Named Partner/Founder | April 2001 - August 2002

Corpus Christi, Texas

Harris & Watts, PC

Named Partner/Founder | April 1997 – April 2001

Corpus Christi, Texas

Perry & Haas LLP

Partner | January 1992 – April 1997

Corpus Christi, Texas

David L. Perry & Associates LLP

Associate | September 1990 – December 1991

Corpus Christi, Texas

EDUCATION

Chief Justice, Supreme Court of Texas

Briefing Attorney,
August 1989-1990

University of Texas School of Law
University of Texas University

Juris Doctorate, July 1989
Bachelor of Arts, May 1987

LITIGATION LEADERSHIP

- *In re: Hair Relaxer Marketing Sales Practices and Products Liability Litigation* (MDL 3060) (court-appointed member of the Plaintiffs' Steering Committee) ("PSC")
- *In re: Acetaminophen – ASD/ADHD Products Liability Litigation* (MDL 3043) (court-appointed co-lead counsel)
- *In re: Texas Opioid Litigation* (Texas MDL No. 18-0358) (head of Plaintiffs' Settlement Committee; court-appointed member of the PSC)
- *In re: Juul Labs, Inc.* (MDL 2913) (court-appointed member of the PSC)
- *In re: Zantac Products Liability Litigation* (MDL 2924) (court-appointed member of the PSC; court-appointed head of trial team)
- *In re: Paraquat Cases* (JCCP 5031) (court-appointed PSC)
- *In re: Kincaid Fire* (JCCP 5157) (court-appointed Plaintiffs' Liaison Counsel)
- *In re: Zogg Fire* (JCCP 5165) (court-appointed Plaintiffs' Liaison Counsel)
- *In re: Dixie Fire* (JCCP 5208) (court-appointed Plaintiffs' Liaison Counsel)
- *In re: Bobcat Fire* (20STCV42356- court-appointed Co-Lead Counsel)
- *In re: Valsartan N-Nitrosodimethylamine (NDMA) Contamination Products Liability Litigation* (MDL 2875) (court-appointed member of the PSC)
- *In re: California North Bay Fires Cases* (JCCP 4955) (appointed member of the Plaintiffs' Settlement Committee)
- *In re: Syngenta AG MIR162 Corn Litigation*, MDL 2591 (D. Kan.) (court-appointed member of Plaintiffs' Settlement Committee)
- *In re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation* (MDL 2385) (court-appointed co-lead counsel)
- *In Re: Stand N Seal* (MDL 1804) (court-appointed co-lead counsel)
- *In Re: Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico* (MDL 2179) (court-appointed member of the PSC)
- *In Re: FEMA Trailer Formaldehyde Products Liability Litigation*, MDL 1873 (court-appointed member of the PSC)
- *In Re: Silica* (MDL 1553) (court-appointed co-liaison counsel)

COURT & BAR ADMISSIONS

- Texas, Arkansas, Oregon
- U.S. District Courts, Southern, Eastern, Northern and Western Districts of Texas
- U.S. Supreme Court
- *Pro Hac Vice* Admissions in Numerous state and federal courts

AWARDS AND RECOGNITIONS

- Elected as a Member of the Inner Circle of Advocates.
- Board Certified, Texas Board of Legal Specialization, Personal Injury.
- Inducted into the American Board of Trial Advocates (“ABOTA”)
- Texas Trial Lawyers Association, Executive Committee & Board of Directors
- Attorneys Information Exchange Group, Executive Committee & Board of Directors
- AV Rated, Martindale-Hubbell

PUBLICATIONS

- TRIAL: A GUIDE FROM START TO FINISH – PERSPECTIVES FROM OPPOSING COUNSEL (Book Published by the American Bar Association in 2020)
- Over 250 articles and Power Points presented at various Continuing Legal Education Seminars
- Watts, M. & Rockwell B., The Original Intention of the Education Article of the Texas Constitution, St. Mary’s Law Journal, Vol. 21, No. 4, Art. 9 (January, 1990)

VERDICTS & SETTLEMENTS

- Lead Trial Counsel in trial court verdicts and arbitration awards exceeding \$1.6 Billion
- Settlement Recoveries for Clients exceeding \$7.0 Billion

LEVIN SEDRAN & BERMAN LLP

Counsellors at Law and Proctors in Admiralty

ARNOLD LEVIN
LAURENCE S. BERMAN
FREDERICK S. LONGER*

DANIEL C. LEVIN
CHARLES E. SCHAFFER
AUSTIN B. COHEN*
MICHAEL M. WEINKOWITZ**
KEITH J. VERRIER*
DAVID C. MAGAGNA, JR.*
NICHOLAS J. ELIA

510 WALNUT STREET
SUITE 500
PHILADELPHIA, PA 19106-3697

TELEPHONE (215) 592-1500
FACSIMILE (215) 592-4663

OF COUNSEL:
HOWARD J. SEDRAN
SANDRA L. DUGGAN
RAYMOND P. FORCENO

*also admitted in New Jersey
**also admitted in New York

March 15, 2023

Hon. Benita Y. Pearson
United States District Judge
313 Thomas D. Lambros
Federal Building & Courthouse
125 Market Street
Youngstown, Ohio 44503-1780

**Re: *Feezle et al. v. Norfolk Southern Railway Co. et al.*,
No. 4:23-cv-00242-BYP (N.D. Ohio)**

Dear Judge Pearson:

Pursuant to this Court's order dated March 8, 2023, please consider this letter application for a leadership position in this consolidated action. As detailed below, Mr. Schaffer is qualified, experienced, and committed to vigorously litigating this action on behalf of the plaintiffs and class.

I. Charles E. Schaffer's Professional Experience in MDLs and Complex Litigation:

With over 25 years of experience, Mr. Schaffer is a nationally recognized leader in complex litigation, having been appointed as Lead or Co-Lead Counsel or as a PSC member on a regular basis by federal courts across the country.¹ He is widely recognized for his ability to lead very

¹ Mr. Schaffer's appointments in MDLs include, *inter alia*, *In re Phillips Recalled CPAP, Bi-Level PAP, Mechanical Ventilator Products Liability Litigation*, MDL No. 3014 (W.D. Pa.) (Plaintiffs' Discovery Liaison Counsel for Phillips and SoClean MDLs); *In re: Aqueous Film-Forming Foams (AFFF) Products Liability Litigation*, MDL No. 2873 (D.S.C.) (Plaintiffs' Executive Committee); *In re Hill's Pet Nutrition, Inc. Dog Food Products Liability Litigation*, MDL 2887 (D. Kan.) (Plaintiffs' Executive Committee); *In re: Intel Corp. CPU Marketing Sales Practices and Products Liability Litigation*, MDL No. 2828 (D. Or.) (Appointed to Plaintiffs' Executive Committee to represent the interests of governmental entities); *In re Apple Inc. Device Performance Litigation*, MDL No. 2827 (N.D. Cal.) (Plaintiffs' Executive Committee); *In re Wells Fargo Insurance Marketing Sales Practices Litigation*, MDL No. 2797 (C.D. Cal.) (Plaintiffs' Executive Committee); *In re: JP Morgan Modification Litigation*, MDL No. 2290 (D. Mass.) (Plaintiffs' Co-lead Counsel); *In re: IKO Roofing Products Liability Litigation*, MDL No. 2104 (C.D. Ill.) (Plaintiffs' Co-lead Counsel); *In re: HardiePlank Fiber Cement Siding Litigation*, MDL No. 2359 (D. Minn.) (Plaintiffs' Executive Committee); *In re Navistar Diesel Engine*

complex litigation and his expertise in dealing with discovery, experts, damages models, and national and multi-state classes. Mr. Schaffer's most recent MDL experience is his role in *In re Phillips Recalled CPAP, BI-Level PAP, Mechanical Ventilator Products Liability Litigation*, MDL No. 3014 (W.D. Pa.), where he serves as discovery liaison between companion MDLs to ensure that discovery is coordinated and conducted efficiently, and in *In re: Aqueous Film-Forming Foams (AFFF) Products Liability Litigation*, MDL No. 2873 (D.S.C.), where he serves on the Executive Committee as discussed more fully below.

Mr. Schaffer and Levin Sedran regularly prosecute environmental class actions and multi-state consumer class actions involving technically complex issues and have one of the best track records in the country when it comes to developing practical damages methodologies and obtaining prompt relief for individuals and homeowners exposed to toxic substances and for consumers victimized by defective products and unfair or deceptive practices, as well as working cooperatively with others.

Of relevance to this litigation, Mr. Schaffer has served as Lead Counsel and as a member of a PSC or Executive Committee in environmental class actions ranging from oil spills, gasoline discharges, and most recently, PFAS contamination of the American water supply.² See, e.g., *In re: Aqueous Film-Forming Foams (AFFF) Products Liability Litigation*, MDL No. 2873 (D.S.C.) (Charles Schaffer appointed to Plaintiffs' Executive Committee to represent water authorities, fireman, individuals, property owners, and governmental entities for their respective injuries and damages as a result of PFAS contamination of the American water supply as well as injuries from exposure to PFAS in the water. The litigation involves claims for, *inter alia*, personal injuries, medical monitoring, diminished property value and remediation costs incurred by water authorities and public entities and sovereigns.); *Meneghin v. Exxon Mobil Corporation*, No. OCN-002697-07 (N.J. Super. Ct. 2012) (As Lead Counsel obtained a multi-million-dollar recovery for property damage in relation to discharge of gasoline leading to groundwater contamination); *Jamell Johnson v. James Walsh*, No. 2012 (Pa. Ct. Com. Pl., April Term 2008) (As Lead Counsel obtained certification of a property damage class and then a multi-million-dollar recovery for property owners for diminished value as a result of arsenic, lead and other volatile EOC contamination).

Products Liability Litigation, MDL No. 2223 (N.D. Ill.) (Plaintiffs' Executive Committee); *In re: Azek Decking Sales Practice Litigation*, No. 12-6627 (D.N.J.) (Plaintiffs' Executive Committee); *In re: Pella Corporation Architect and Designer Series Windows Marketing Sales Practices and Product Liability Litigation*, MDL No. 2514 (D.S.C.) (Plaintiffs' Executive Committee); *In re: CitiMortgage, Inc. Home Affordable Modification Program*, MDL No. 2274 (C.D. Cal.) (Plaintiffs' Executive Committee); *In re: Carrier IQ Consumer Privacy Litigation*, MDL No. 2330 (N.D. Cal.) (Plaintiffs' Executive Committee); *In re: Dial Complete Marketing and Sales Practices Litigation*, MDL No. 2263 (D.N.H.) (Plaintiffs' Executive Committee); *In re: Emerson Electric Co. Wet/Dry Vac Marketing and Sales Litigation*, MDL No. 2382 (E.D. Miss.) (Plaintiffs' Executive Committee); and *In re: Colgate-Palmolive Soft Soap Antibacterial Hand Soap Marketing and Sales Practice Litigation*, MDL No. 2320 (D.N.H.) (Plaintiffs' Executive Committee). Mr. Schaffer has also served in leadership positions in class actions which were not consolidated in an MDL. See Exhibit A. In addition, he has served as member of litigation teams where Levin Sedran was appointed to leadership positions in, *inter alia*, *In re Chinese-Manufactured Drywall Product Liability Litigation*, MDL No. 2047 (E.D. La.); *In re Vioxx Products Liability Litigation*, MDL No. 1657 (E.D. La.); *In re Orthopedic Bone Screw Products Liability Litigation*, MDL No. 1014 (E.D. Pa.); and *In re Diet Drug Litigation*, MDL No. 1203 (E.D. Pa.).

² We have represented both individuals and businesses successfully in these cases.

This is one of the few litigation classes certified by a Pennsylvania court involving property contamination.)

II. Names and Contact Information of Judges:

Honorable Richard M. Gergel, United States District Judge for the District of South Carolina (Charleston). *In re: Aqueous Film-Forming Foams (AFFF) Products Liability Litigation*, MDL No. 2873 (D.S.C.). As discussed above, Mr. Schaffer is serving as a member of Plaintiffs' Executive Committee to represent water authorities, firefighters, individuals, property owners, and governmental entities for their respective injuries and damages as a result of PFAS contamination of the American water supply as well as injuries from exposure to PFAS in the water. (843-579-2610).

Honorable Edward Davila, United States District Judge for the Northern District of California. *In re Apple Inc. Device Performance Litigation*, MDL No. 2827 (N.D. Cal.). Mr. Schaffer served as a member of the Executive Committee and was Co-Chair of Third Party Discovery Committee which was instrumental in obtaining evidence to establish Apple's liability for the throttling or slowing down of consumers' phones to hide performance defects. These efforts were instrumental in achieving a nationwide common fund settlement of \$310 million. (408-535-5356).

Honorable James E. Shadid, United States District Judge for the Central District of Illinois. *In re IKO Roofing Products Liability Litigation*, MDL No. 2104 (C.D. Ill.). Mr. Schaffer served as Co-Lead Counsel in a consumer class action involving defective roofing products which resulted in a nationwide enhanced warranty settlement valued in excess of \$50 million dollars. (309-671-4227).

Honorable Richard G. Stearns, United States District Judge for the District of Massachusetts. *In re: JP Morgan Modification Litigation*, MDL No. 2290 (D. Mass.). Mr. Schaffer served as Co-Lead Counsel in a consumer class action arising out of JP Morgan Chase's failure to provide mortgage modifications to qualified borrowers as part of the Home Affordable Modification Program, one of the main programs designed to assist struggling homeowners in the economic downturn. A nationwide settlement valued at \$506 million was achieved. (617-748-9162).

Honorable Andrew J. Guilford, United States District Judge (Ret.) for the Central District of California. *In re Wells Fargo Insurance Marketing Sales Practices Litigation*, MDL No. 2797 (C.D. Cal.). Mr. Schaffer served as a member of a three-person executive committee in a consumer class action involving Wells Fargo unlawfully placing duplicative, unnecessary, and overpriced collateral protection policies on their customers' automobile loan accounts. A nationwide settlement in the amount of \$423.5 million dollars was achieved. (*Judicate West*, 714-834-1340).

Honorable Paul S. Diamond, United States District Judge for the Eastern District of Pennsylvania. *Segebarth v. CertainTeed LLC*, No. 19-5500 (E.D. Pa.). Mr. Schaffer served as Lead Class Counsel in a consumer class action involving defective roofing products. The total

value of the settlement benefits available to Class Members is valued at \$900 million and the value of the enhanced warranty benefits to be paid out over the seven-year claims period is \$99,138,852. (267-299-7730).

Honorable Gregory H. Woods, United States District Judge for the Southern District of New York. *In Re Deva Concepts Product Liability*, No. 1:20-cv-01234 (S.D.N.Y.). Mr. Schaffer served as Co-Lead counsel in an action brought by consumers for economic loss and personal injuries resulting from use of hair care products. A multi-million-dollar nationwide settlement was reached. (212-805-0296).

Honorable Otrie D. Smith, Senior United States District Judge for the Western District of Missouri. *Pollard v. Remington Arms Company*, No. 4:13-cv-00086-ODS (W.D. Mo.). Mr. Schaffer served as Co-Lead Counsel in a consumer class action involving firearms which would fire without the trigger being pulled. A nationwide settlement was achieved valued at \$97 million. (816-512-5000).

III. Charles E. Schaffer's Willingness and Ability to Immediately Commit to Time-Consuming Litigation:

As illustrated by his track record, Mr. Schaffer has repeatedly demonstrated his ability to commit to prosecuting cases through certification, trial, and even post-trial appeals when necessary. He has demonstrated his willingness and ability to commit to time-consuming multidistrict litigations and complex litigations as evidenced by his dedication to the multidistrict litigation process over the past decade and the progressively increasing responsibilities he has accepted in each litigation. Mr. Schaffer and his firm have devoted significant resources (both financial and staff) to prosecute multiple MDLs, including being involved in multiple MDLs simultaneously. Mr. Schaffer is familiar with the demands of such complex cases, is prepared to dedicate the necessary resources and staff to efficiently prosecute this action, and can represent to the Court that he is fully able to take on whatever level of responsibility this Court deems appropriate.

IV. Charles E. Schaffer's Willingness and Ability to Work Cooperatively with Other Plaintiffs' Counsel and Defense Counsel:

Mr. Schaffer has excellent working relationships with the lawyers and their firms seeking Lead Counsel and Executive Committee positions (as well as many of the firms that submitted applications for steering committee positions). In addition, his firm has an excellent working relationship with Norfolk Southern's counsel which spans a decade. Mr. Schaffer and his form pride themselves on forming productive and collegial relationships with co-counsel and defense counsel because he believes that such cooperative working relationships are necessary for effective representation. Collaboration with all counsel and avoiding unnecessary and petty disputes with defense counsel are vital to zealously and efficiently prosecuting a complex action on behalf of a class of injured victims. His frequent appointments to MDL leadership positions are evidence of his reputation among the plaintiffs bar, and the plaintiffs MDL bar in particular. He and the members of his firm are well-known and well-respected within both the plaintiffs' and defense MDL bar.

V. Access to Resources Available to Prosecute this Litigation in a Timely Manner:

Levin Sedran possesses both the financial and human resources necessary to successfully prosecute large complex cases to trial and is willing to devote those resources to prosecute this action. The firm is comprised of attorneys who are versed in all stages of litigation against large, heavily funded defense firms. Having practiced exclusively in complex and class action litigation since its inception over three decades ago, the firm handles cases only on a contingent-fee basis and focuses its practice on environmental exposures, consumer protection, products liability, antitrust, and other complex class action litigation. Levin Sedran's stock and trade is the litigation of technically complex matters and cases such as this one. Levin Sedran recognizes the commitment of financial resources this litigation will entail. We do not use third-party financing and routinely advance substantial sums on behalf of our clients in complex cases, recovery of which is contingent upon the successful prosecution of case, and are prepared to do so here.

VI. Other Considerations:

Mr. Schaffer and his firm also have extensive experience representing injured railroad workers against railroad companies, especially Norfolk Southern, for injuries including cancer as a result of exposure to toxins and other hazardous chemicals in the workplace under the Federal Employers' Liability Act. Along with his class action and mass tort experience, Mr. Schaffer has an LLM in Trial Advocacy and has extensive experience prosecuting complex individual actions on behalf of injured individuals in products liability, medical negligence, and drug and medical device actions. He has served as Lead Counsel in these matters and successfully tried cases to jury verdicts. Undoubtedly, Lead Counsel and fellow members of the PSC will benefit from his insight and experience in prosecuting and trying those actions to jury verdicts. Furthermore, Mr. Schaffer and other members of his firm have a strong working relationship with several of the other firms applying for leadership positions in this case and pride themselves on bringing both a cooperative spirit and fresh perspective to multidistrict litigation and can assure the Court that this MDL would be well-served by those appointments.

Very truly yours,



Charles E. Schaffer

CHARLES E. SCHAFFER | cschaffer@lfsblaw.com

Attorney with 28 years of experience, representing individuals and national classes in toxic torts, environmental disasters and exposures, consumer protection, products liability, antitrust, and other complex class action litigation. Extensive experience prosecuting complex individual actions on behalf of injured individuals in products liability, medical negligence, and drug and medical device actions, including serving as Lead Counsel in these matters and successfully trying cases to jury verdicts.

CAREER HIGHLIGHTS

- Appointed to 17 multidistrict litigation plaintiff leadership positions.
- Appointed as Co-Lead counsel in *Pollard v. Remington Arms Company*, No. 4:13-cv-00086-ODS (W.D. Mo.), on behalf of over one million consumers who purchased firearms equipped with a defective fire control mechanism which would allow the firearm to discharge without pulling the trigger and placing the user of the firearm as well as bystanders at a grave risk of injury and even death. A nationwide settlement was achieved requiring Remington to repair and retrofit all firearms to prevent the guns from firing without a trigger pull which prevented injuries and deaths from accidental discharges. The settlement value was \$97 million.
- Appointed and served as a member of the Executive Committee and Co-Chair of Third Party Discovery Committee in *In re Apple Inc. Device Performance Litigation*, MDL No. 2827 (N.D. Cal.), and was instrumental in obtaining evidence to establish Apple's liability for the throttling or slowing down consumers phones to hide performance defects. These efforts were instrumental in achieving a nationwide common fund settlement of \$310 million.
- Appointed and served as member of three-person executive committee, in *In re Wells Fargo Insurance Marketing Sales Practices Litigation*, MDL No. 2797 (C.D. Cal.), and was instrumental in obtaining evidence to establish Wells Fargo unlawfully placing duplicative, unnecessary, and overpriced collateral protection policies on their customer's automobile loan accounts. A nationwide settlement in the amount of \$423.5 million was achieved along with business practice changes.
- Appointed and served as Co-lead and Co-Class Counsel in *Armando Herrera v. Wells Fargo Bank*, No. 8:18-cv-00332 (C.D. Cal.), and was instrumental in obtaining evidence to establish Wells Fargo unlawfully failed to repay borrowers for prepaid GAP insurance when they satisfied or paid off the auto loan prior to maturity, as required by the terms of the agreement, and charged unwarranted fees. A nationwide settlement in excess of \$300 million was achieved along with business practice changes.
- Appointed and served as Co-lead counsel in *In re: JP Morgan Modification Litigation*, MDL No. 2290 (D. Mass.), representing tens of thousands of qualified borrowers who were wrongly denied mortgage modifications as part of the Home Affordable Modification Program, one of the main programs designed to assist struggling homeowners in the economic downturn. A nationwide settlement valued at \$506 was achieved.
- Appointed and served as Co-Lead and Co-Class Counsel in *Segebarth v. CertainTeed LLC*, No. 19-5500 (E.D. Pa.), obtaining a national settlement on behalf of consumers with defective roofing products. The total value of the settlement benefits available to Class Members is

valued at \$900 million and the value of the enhanced warranty benefits to be paid out over the seven-year claims period is \$99,138,852.

- Served as liaison counsel and on discovery and settlement committees in *In re: CertainTeed Corporation Roofing Shingle Product Liability Litigation*, MDL No. 1817 (E.D. Pa.), and achieved a nationwide settlement on behalf of 1.8 million homeowners valued at \$687 to \$815 million. To date over \$200 million of benefits have been paid out and the claims period is still open.
- Served as liaison counsel and on discovery and settlement committees in *In re: CertainTeed Siding Litigation*, MDL No. 2270 (E.D. Pa), and achieved a \$103.9 million nationwide settlement on behalf of homeowners with defective fiber cement siding.
- Serving as court-appointed leadership and on committees on behalf of injured individuals, public entities, health and welfare funds, corporations and consumers in cases of national scope including *Phillips*, *AFFF*, *Valsartan*, *Intel*, *Opioids* and others.

WORK EXPERIENCE

- Levin Sedran & Berman LLP Member, 1998–Present
Philadelphia, PA

EDUCATION

- Temple University Master of Laws, Trial Advocacy, 1998
- Widener University Juris Doctorate, 1995
- Villanova University Bachelor of Science, 1989

LITIGATION LEADERSHIP

MULTIDISTRICT LITIGATION

- *In re Phillips Recalled CPAP, BI-Level PAP, Mechanical Ventilator Products Liability Litigation*, MDL No. 3014 (W.D. Pa.) (appointed Plaintiffs' Discovery Liaison Counsel for *Phillips* and *SoClean* MDLs).
- *In re: Aqueous Film-Forming Foams Products Liability Litigation*, MDL No. 2873 (D.S.C.) (appointed member of Plaintiffs' Executive Committee).
- *In Re: Valsartan Losartan and Irbesartan Products Liability Litigation*, No. 1:19-md-02875-RBK-JS (D.N.J.) (serving as a member of Third Party Payor Committee).
- *In re Hill's Pet Nutrition, Inc. Dog Food Sales Practices and Products Liability Litigation*, MDL No. 2887 (D. Kan.) (appointed member of Plaintiffs Executive committee).
- *In re: Intel Corp. CPU Marketing Sales Practices and Products Liability Litigation*, MDL No. 2828 (D. Or.) (appointed member of Plaintiffs' Executive Committee to represent the interests of governmental entities).
- *In re Apple Inc. Device Performance Litigation*, MDL No. 2827 (N.D. Cal.) (appointed member of Plaintiffs' Executive Committee).

- *In re Wells Fargo Insurance Marketing Sales Practices Litigation*, MDL No. 2797 (C.D. Cal.) (appointed member of Plaintiffs' Executive Committee).
- *In re: JP Morgan Modification Litigation*, MDL No. 2290 (D. Mass.) (appointed Plaintiffs' Co-lead Counsel).
- *In re: IKO Roofing Products Liability Litigation*, MDL No. 2104 (C.D. Ill.) (appointed Plaintiffs' Co-lead Counsel).
- *In re: HardiePlank Fiber Cement Siding Litigation*, MDL No. 2359 (D. Minn.) (appointed member of Plaintiffs' Executive Committee).
- *In re: Navistar Diesel Engine Products Liability Litigation*, MDL No. 2223 (N.D. Ill.) (appointed member of Plaintiffs' Executive Committee).
- *In re: Azek Decking Sales Practice Litigation*, No. 12-6627 (D.N.J.) (appointed member of Plaintiffs' Executive Committee).
- *In re: Pella Corporation Architect and Designer Series Windows Marketing Sales Practices and Product Liability Litigation*, MDL No. 2514 (D.S.C.) (appointed member of Plaintiffs' Executive Committee).
- *In re: CitiMortgage, Inc. Home Affordable Modification Program*, MDL No. 2274 (C.D. Cal.) (appointed member of Plaintiffs' Executive Committee).
- *In re: Carrier IQ Consumer Privacy Litigation*, MDL No. 2330 (N.D. Cal.) (appointed member of Plaintiffs' Executive Committee).
- *In re: Dial Complete Marketing and Sales Practices Litigation*, MDL No. 2263 (D.N.H.) (appointed member of Plaintiffs' Executive Committee).
- *In re: Emerson Electric Co. Wet/Dry Vac Marketing and Sales Litigation*, MDL No. 2382 (E.D. Miss.) (appointed member of Plaintiffs' Executive Committee).
- *In re: Colgate-Palmolive Soft Soap Antibacterial Hand Soap Marketing and Sales Practice Litigation*, MDL No. 2320 (D.N.H.) (appointed member of Plaintiffs' Executive Committee).
- *In re: CertainTeed Corporation Roofing Shingle Product Liability Litigation*, MDL No. 1817 (E.D. Pa.) (served as liaison counsel and on discovery and settlement committees).
- *In re: CertainTeed Siding Litigation*, MDL No. 2270 (E.D. Pa.) (served as liaison counsel and on discovery and settlement committees).
- *In re Pergerine Financial Group Customer Litigation*, MDL No. 12-5546 (N.D. Ill.) (served on Plaintiffs' Discovery and Settlement Committees).
- *In re Chinese-Manufactured Drywall Product Liability Litigation*, MDL No. 2047 (E.D. La.) (served as member of discovery, expert and trial committees).
- *In re Vioxx Products Liability Litigation*, MDL No. 1657 (E.D. La.) (served member of discovery committee).
- *In re Diet Drug Litigation*, MDL No. 1203 (E.D. Pa.) (served member of discovery committee).

- *In re Orthopedic Bone Screw Products Liability Litigation*, MDL No. 1014 (E.D. Pa.) (served member of discovery committee).

OTHER NON-MDL COMPLEX LITIGATION

- *Armando Herrera v. Wells Fargo Bank*, No. 8:18-cv-00332 (C.D. Cal.) (court appointed Co-Lead/Co-Class Counsel).
- *In re Deva Concepts Products Liability Litigation*, No. 1:20-CV-01234 (S.D.N.Y.) (appointed Co-Lead/Co-Class Counsel).
- *Segebarth v. CertainTeed LLC*, No. 19-5500 (E.D. Pa.) (appointed Co-Lead/Co-Class Counsel).
- *Declid v. Tco Hot Acquisition LLC*, No. 1:21-cv-09569 (S.D.N.Y.) (appointed Co-Lead/Co-Class Counsel).
- *Goldstein v. Henkel Corporation*, No. 3:22-cv-00164 (D. Conn) (appointed Co-Lead/Co-Class Counsel).
- *Bangoura v. Beiersdorf, Inc. and Bayer Healthcare, LLC*, No. 1:22-cv-00291-BMC (E.D.N.Y,) (appointed Co-Lead/Co-Class Counsel).
- *In re Midwestern Pet Foods Marketing Sales Practice and Product Liability Litigation*, No. 3:21-cv-00007 (S.D. Ind.) (appointed Executive Committee).
- *Zicarello v. Sanyo Energy (USA)*, No. 2:19-cv-16623 (D.N.J.) (appointed Co-Lead/Co-Class Counsel).
- *Rojas v. Bosh Solar Energy Corp.*, No. 5:18-cv-5841 (N.D. Cal.) (appointed Co-Lead/Co-Class Counsel).
- *Culbertson v. Deloitte Consulting*, No. 1:20-cv-3962 (S.D.N.Y.) (appointed Executive Committee).
- *Green v. Accolade, Inc.*, No. 2:18-cv-00274 (E.D. Pa.) (appointed Co-Lead/Co-Class Counsel).
- *Kuss v. American Home Patient, Inc.*, No. 8:18 -cv-0248 (M.D. Fla.) (appointed Co-Lead/Co-Class Counsel).
- *Abdelmessih v. Fire Below, Inc.*, No. 2:19-cv-01487 (E.D. Pa.) (appointed Co-Lead/Co-Class Counsel).
- *In re Hudson's Bay Company Data Security Incident Consumer Litigation*, No. 18-cv-8472 (S.D.N.Y.) (appointed Plaintiffs' Executive Committee).
- *Hashemi, v. Bosley, Inc.*, No. 2:21-cv-00946 (C.D. Cal.) (appointed Co-Lead/Co-Class Counsel).
- *Morrison v. Ross Stores, Inc.*, No. 4:18-cv-02671 (N.D. Cal.) (appointed Co-Lead/Co-Class Counsel).
- *Hawes v. Macys West Stores, Inc.*, No. 1:17-cv-00754 (S.D. Ohio) (appointed Co-Lead/Co-Class Counsel).
- *Forth v. Walgreens Co.*, No. 1:17-cv-02246 (N.D. Ill.) (serving as member of Plaintiffs Executive Committee).

- *County of Monmouth, Rite Aid Corporation*, No. 2:20-cv-02024 (E.D. Pa.) (serving as Plaintiff's Co-Lead Counsel).
- *Pollard v. Remington Arms Company*, No. 4:13-cv-00086-ODS (W.D. Mo.) (appointed Co-Lead Counsel).
- *Davis v. SOH Distribution Company, Inc.*, No. 09-CV-237 (M.D. Pa.) (appointed Co-Lead/Co-Class Counsel).
- *Gwaizdowski v. County of Chester*, No. 08-CV-4463 (E.D. Pa.) (served on Plaintiffs' Discovery and Settlement Committees).
- *Meneghin, v. The Exxon Mobile Corporation*, No. OCN-002697-07 (N.J. Super. Ct.) (appointed Co-Lead/Co-Class Counsel).
- *Johnson v. Walsh*, No. 2012 (Pa. Ct. Com. Pl.) (appointed Co-Lead/Co-Class Counsel).
- *Leach v. Honeywell International, Inc.*, No. 1:14-cv-12245-LTS (D. Mass) (Plaintiffs' Discovery and Settlement Committees).
- *Gulbankian v. MW Manufacturers, Inc.*, No. 1:10-cv-10392-RWZ (D. Mass.) (served on Plaintiffs' Discovery and Settlement Committees).
- *Eliason v. Gentek Building Products, Inc.*, No. 1:10-cv-2093 (N.D. Ohio) (served on Plaintiffs' Executive Committee).
- *Smith v. Volkswagen Group of America, Inc.*, No. 3:13-cv-00370-SMY-PMF (S.D. Ill.) (served on Plaintiffs' Discovery and Settlement Committees).
- *Melillo v. Building Products of Canada Corp.*, No. 1:12-cv-00016-JGM (D. Vt.) (appointed Co-Lead/Co-Class Counsel).
- *Vought v. Bank of America*, No. 10-cv-2052 (C.D. Ill.) (served on Plaintiffs' Discovery and Settlement Committees).
- *United Desert Charities v. Sloan Valve*, No. 12-cv-06878 (C.D. Cal.) (served on Plaintiffs' Executive Committee).
- *Kowa v. The Auto Club Group a/k/a AAA Chicago*, No. 1:11-cv-07476 (N.D. Ill.) (appointed Co-Lead/Co-Class Counsel).
- *Weller v. HSBC Mortgage Services, Inc.*, No. 13-cv-00185 (D. Colo.) (served on Plaintiffs' Discovery and Settlement Committees).
- *Gilmour v. HSBC Bank, N.A.*, No. 13-cv-05896 (S.D.N.Y) (served on Discovery and Settlement Committees).
- *Smith v. SunTrust Mortgage, Inc.*, No. SACH3-739-AG (C.D. Cal.) (served on Plaintiffs' Discovery and Settlement Committees).
- *George v. Uponor, Inc.*, No. 12-249 ADM/JJK (D. Minn.) (served on Plaintiffs' Discovery and Settlement Committees).
- *Yarbrough v. Martin's Famous Pastry Shoppe, Inc.*, No. 11-cv-02144-JEJ (M.D. Pa.) (appointed Co-Lead/Co-Class Counsel).

- *Minor v. Conoleum Corporation*, No. 3:13-cv-07727-JAP-LHG (D.N.J.) (appointed Co-Lead/C0-Class Counsel).
 - *In re: MF Global Holdings, Ltd. Investment Litigation*, No. 12-MD-2338 (S.D.N.Y.) (served on Plaintiffs' Discovery and Settlement Committees).

COURT & BAR ADMISSIONS

- Pennsylvania, 1995
 - New Jersey, 1995
 - U.S. District Court, Eastern District of Pennsylvania
 - U.S. Court of Appeals, Third Circuit
 - U.S. District Court, Western District of Pennsylvania
 - U.S. District Court, Middle District of Pennsylvania
 - U.S. District Court, Northern District of Illinois
 - U.S. District Court, Central District of Illinois
 - U.S. District Court, Northern District of New York
 - U.S. District Court, District of Colorado
 - U.S. Court of Appeals, Sixth Circuit

MILITARY SERVICE

- United States Marine Corps Corporal, 1984-1988



March 15, 2023

Honorable Benita Y. Pearson
United States District Court
Northern District of Ohio

Re: Feezle at al., etc. v. Norfolk Southern Railway Co. et al., No. 4:23CV0242

Dear Judge Pearson:

Pursuant to the Court's Order dated March 8, 2023 (ECF No. 36), please accept this letter application of James Bilsborrow of the law firm Weitz & Luxenberg, PC ("Weitz"), for a position on the Plaintiffs' Executive Committee in the above-captioned cases. I am counsel in the related matter *Barnhouse v. Norfolk Southern Corp. et al.*, No. 4:23-cv-00510, and, along with my co-counsel at Elk & Elk, have been working cooperatively with proposed Co-Lead Counsel Ms. Conroy, Ms. Graham, Mr. Katz, and Mr. Morgan for the past several weeks as the environmental disaster in East Palestine has unfolded. For the reasons set forth below, I believe I am well-qualified to serve the Court in this difficult and complex matter. In addition, my firm, which specializes in environmental and toxic tort litigation, is prepared to contribute valuable resources and experience to assist the East Palestine community in its pursuit of justice.

I am a Partner at Weitz and Co-Chair of the firm's Environmental, Toxic Tort, and Consumer Protection department. Since the beginning of my career, I have devoted my practice to assisting victims injured by toxic substances from environmental contamination. Further, over the past fifteen years, Weitz's Environmental Tort department has been appointed by courts to litigate some of the nation's largest environmental disaster cases, including those arising out of the BP oil spill, Aliso Canyon methane gas explosion, and the 2008 spill of over one billion gallons of coal ash across properties in the Tennessee Valley. Those catastrophic incidents, like the one in East Palestine, involved communities exposed to dangerous chemicals, many of whom were forced to evacuate their homes, only to return to contaminated properties of lesser value, and who suffered from severe acute physical conditions as well as long-term latent injuries. My colleagues and I have also successfully litigated toxic exposure claims on behalf of communities faced with historical pollution, obtaining certified medical monitoring classes for individuals exposed to toxic per- and polyfluoroalkyl substances (PFAS) and leading multidistrict litigation on behalf of cancer victims exposed to Monsanto's Roundup herbicide products. I have served either a leading or supporting role in each of these cases and, as such, I have experience litigating the types of claims asserted in the above-captioned cases, knowledge of the applicable law, and the resources necessary to represent the East Palestine community. *See Fed. R. Civ. P. 23(g)* (setting forth requirements for

appointment of class counsel). Moreover, in many of these matters, my firm has worked cooperatively with several of the law firms closely involved in this case, including proposed Co-Lead Counsel. Accordingly, I am well-suited to provide integral support to the collective litigation effort required in this matter.

Professional Experience in Complex Environmental and Toxic Tort Matters: I have extensive experience in both state and federal court representing individuals and communities exposed to toxic contaminants and dangerous pollution. *See Exhibit A* (Bilsborrow Resume), attached hereto. In *Baker v. Saint-Gobain Performance Plastics Corp.*, No. 1:16-cv-917 (N.D.N.Y.), before the Honorable Lawrence E. Kahn, I was appointed co-lead class counsel to represent a class of current and former residents of Hoosick Falls, a village in upstate New York whose drinking water was contaminated with perfluorooctanoic acid (PFOA), a known “likely carcinogen.” I have taken the lead in all facets of the litigation since its commencement in 2016, shepherding named plaintiffs through discovery, spearheading document and deposition discovery, working with and defending plaintiffs’ experts, and briefing numerous motions, including a successful appeal to the Second Circuit. *See Baker v. Saint-Gobain Performance Plastics Corp.*, 959 F.3d 70 (2d Cir. 2020). In February 2022, the court approved a partial settlement with three of four defendants worth \$65.25 million, which provided payments for diminution in property value and nuisance, and funded a ten-year medical monitoring program. *See Baker v. Saint-Gobain Performance Plastics Corp.*, 2022 WL 1025185 (N.D.N.Y. Feb. 4, 2022). In September 2022, the court certified medical monitoring and property damage classes against the remaining defendant, DuPont. *See Baker v. Saint-Gobain Performance Plastics Corp.*, --- F. Supp. 3d ---, 2022 WL 9515003 (N.D.N.Y. 2022). The litigation against DuPont is ongoing.

I am currently a member of the Plaintiffs’ Executive Committee in *In re Dicamba Herbicides Litig.*, MDL No. 2820, No. 1:18-md-02820-SNLJ (E.D. Mo.), before the Honorable Stephen N. Limbaugh, Jr. In this multidistrict litigation, plaintiffs are farmers in the Midwest and Southern United States whose crops were damaged by vapor drift caused by the defendants’ dicamba-based herbicide products. As a member of the Executive Committee, I was closely involved in developing the plaintiffs’ liability narrative through company deposition discovery, Rule 30(b)(6) depositions, negotiation of electronic discovery protocols, and third-party discovery. I also served as a member of the plaintiffs’ settlement team that ultimately negotiated a \$400 million settlement on behalf of farmers nationwide. The *Dicamba* MDL has largely concluded, though settlement administration is ongoing.

In 2018, I was appointed co-lead class counsel in *Burdick v. Tonoga, Inc. (d/b/a Taconic)*, No. 00253835 (N.Y. Rensselaer Cnty.), before Justice Patrick McGrath. In *Burdick*, I represented a class of current and former residents of Petersburgh, New York, whose drinking water and properties were contaminated with toxic PFAS chemicals. I led all phases of this litigation, from the initial pleadings through summary judgment and pretrial proceedings. After the trial court granted class certification, I successfully defended the class on appeal, obtaining a unanimous decision by the New York State Appellate Division. *See Burdick v. Tonoga, Inc.*, 179 A.D.3d 53 (N.Y. App. Div. 2019). The Appellate Division’s decision was the first in state history upholding certification of a medical monitoring class. In March 2022, the court granted final approval to a \$23.5 million class settlement that provided diminution in property value and nuisance payments to property owners and renters, and established a fifteen-year medical monitoring program for affected class members.

In addition to the matters set forth above, I have served as a member of the firm's litigation team that has successfully prosecuted some of the nation's largest environmental cases of the past fifteen years. To highlight but a few examples:

- *In re Roundup Prods. Liab. Litig.*, MDL No. 2741, No. 16-md-02741-VC (N.D. Cal.): Robin Greenwald, who is Weitz co-counsel in this matter, was appointed co-lead counsel in multidistrict litigation against Monsanto Co. for personal injury claims brought on behalf of individuals diagnosed with non-Hodgkin's lymphoma as a result of their exposure to Roundup herbicide products. Plaintiffs obtained an \$80 million verdict in the first bellwether case, a result that was unanimously affirmed by the Ninth Circuit. See *Hardeman v. Monsanto Co.*, 997 F.3d 941 (9th Cir. 2021). In June 2020, these efforts resulted in settlements valued at over \$10 billion.
- *Southern California Gas Leak Cases*, JCCP 4861 (Super. Ct. Los Angeles Cnty.): Weitz is co-lead court-appointed counsel in consolidated proceeding involving personal injury, property damage, and nuisance claims arising out of the four-month-long Aliso Canyon natural gas leak in Porter Ranch, California, which was caused by the Southern California Gas Company. Following the leak, residents were forced to evacuate their homes and some could not return for months. In 2022, the matter resolved for \$1.8 billion on behalf of approximately 36,000 plaintiffs.
- *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on Apr. 20, 2010*, No. 10-md-2179 (E.D. La.): Weitz was appointed to the Plaintiffs' Steering Committee to litigate personal injury, property damage, and economic loss claims arising out of the 2010 BP oil spill, the largest marine oil spill in the history of the petroleum industry. The case ultimately settled on a class-wide basis with an uncapped fund worth in excess of \$20 billion. See *In re Deepwater Horizon*, 739 F.3d 790 (5th Cir. 2014).
- *In re Auchard et al. v. Tennessee Valley Auth.*, No. 3:09-cv-54 (W.D. Tenn.): After a failure at a waste impoundment fossil fuel plant caused the release of over one billion gallons of coal ash sludge across more than 300 acres of properties in Kingston, Tennessee, Weitz represented individuals to recover damages to property and for personal injuries in a settlement worth \$28 million.

Willingness and ability to commit to time-consuming litigation: I am willing and able immediately to commit to this time-consuming litigation. Indeed, for the past several weeks, I have devoted considerable time to this matter, interviewing potential clients, researching potential claims and defenses, conferring with plaintiffs' counsel on strategy, and consulting with potential expert witnesses. I have also enlisted the support of multiple attorneys in my department, including my co-counsel, Ms. Greenwald, with whom I will litigate this matter.

Willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel: In several of the matters referenced above, as well as other complex, multidistrict and class action litigations, Weitz has worked cooperatively with many of the law firms seeking appointments in this case, including Co-Lead Counsel. In addition, I have a track record of working professionally with opposing counsel in an effort to advance litigation while minimizing disputes. In this matter, for example, I have engaged in productive conferrals with Norfolk Southern's counsel regarding inspection of the train car and derailment site. I have no doubt we will work cooperatively as this litigation continues.

Access to resources available to timely prosecute this litigation: Weitz is committed to timely prosecuting this litigation and has access to sufficient resources to ensure the matter is well-funded and well-staffed. Weitz is a large law firm, with approximately 100 attorneys and 250 support staff, several of whom will be dedicated to this case. We have the resources not only to litigate the case, but also to ensure our clients are receiving the counsel that they require in this time of uncertainty. Weitz has been part of numerous large and complex lawsuits since it was founded 35 years ago and has the human and financial resources to meet the challenges presented by this case. If the demands require it, the firm will not hesitate to shift resources or hire additional staff to meet the needs of discovery, to prepare for trial, or bring the case to a successful resolution.

Names and contact information for judicial references:

Hon. Daniel Stewart – *Baker v. Saint-Gobain Performance Plastics Corp.*, No. 1:16-cv-917 (N.D.N.Y.). Magistrate Judge Stewart has overseen significant aspects of the *Baker* matter referenced above, including discovery disputes and motion practice. Judge Stewart may be contacted by telephone at (518) 257-1843. United States District Judge Lawrence Kahn, to whom the *Baker* matter is assigned, may also be contacted by telephone at (518) 257-1833.

Hon. Stephen N. Limbaugh, Jr. – *In re Dicamba Herbicides Litig.*, MDL No. 2820, No. 1:18-md-02820-SNLJ (E.D. Mo.). Judge Limbaugh may be contacted by telephone at (573) 331-8873.

Justice Patrick McGrath – *Burdick v. Tonoga, Inc. (d/b/a Taconic)*, No. 00253835 (N.Y. Rensselaer Cnty.). Justice McGrath appointed me co-lead class counsel and adjudicated several motions that I litigated along with my co-counsel. Justice McGrath may be contacted by telephone at (518) 285-5025.

In sum, I am dedicated to serving on the Plaintiffs' Executive Committee in this matter. I believe that I, along with my law firm, have the experience and resources to positively contribute to this litigation effort. I have also worked cooperatively and effectively with many counsel seeking appointments in this case and have no doubt we will work effectively together if appointed here. I appreciate the Court's consideration in this matter.

Respectfully submitted,

/s/ James J. Bilsborrow

James Bilsborrow

James J. Bilsborrow

700 Broadway • New York, NY 10003
(212) 558-5856 • jbilsborrow@weitzlux.com

EXPERIENCE

Weitz & Luxenberg, P.C., New York, NY

Partner, Co-Chair, Environmental, Toxic Tort, Consumer Protection Unit (2021-Present);
Associate (2011-2020)

Representative Cases:

- *Baker v. Saint-Gobain Performance Plastics Corp.*, No. 1:16-cv-917 (N.D.N.Y.): In case involving community-wide contamination with toxic chemical PFOA, appointed co-lead class counsel for certified medical monitoring and property damage litigation classes against E.I. DuPont de Nemours and Company. *Baker v. Saint-Gobain Performance Plastics Corp.*, --- F. Supp. 3d ---, 2022 WL 9515003 (N.D.N.Y. 2022); appointed co-lead class settlement counsel for \$65.25 million partial settlement class obtaining diminution in property value, nuisance, and medical monitoring following toxic exposure. *Baker v. Saint-Gobain Performance Plastics Corp.*, No. 1:16-CV-00917-LEK-DJS, 2022 WL 1025185 (N.D.N.Y. Feb. 4, 2022).
- *Burdick v. Tonoga, Inc. (d/b/a Taconic)*, No. 00253835 (N.Y. Rensselaer County): In case involving community-wide contamination with toxic PFAS compound, appointed co-lead class counsel for certified medical monitoring, property damage, and nuisance class against defendant; successfully defended class certification decision on appeal, see *Burdick v. Tonoga, Inc.*, 179 A.D.3d 53 (N.Y. App. Div. 2019); trial court approved class settlement for \$23.5 million in March 2022.
- *In re Dicamba Herbicides Litigation*, No. 1:18-md-02820-SNLJ, MDL No. 2820 (E.D. Mo.): In case involving widespread herbicide damage to crops across the Midwest, appointed to Plaintiffs' Executive Committee; global settlement reached in June 2020 for \$400 million.
- *Franco v. Coronet Industries, Inc.*, No. 04-CA-002576 (Fla. Cir. Ct.): In case involving toxic airborne emissions from animal feed facility, served as lead counsel for 500 plaintiffs in surrounding community alleging personal injury, property damage, nuisance, and seeking medical monitoring; case successfully resolved after eight years of litigation for confidential sum.

Other Leadership Appointment Positions:

- *In re Social Media Adolescent Addiction/Personal Injury Products Liability Litigation*, MDL No. 3047, No. 4:22-md-03047-YGR (N.D. Cal.): Appointed to Plaintiffs' Steering Committee in multidistrict litigation involving claims of personal injury and mental health harms caused by social media platforms.

- *Fero v. Excellus Health Plan, Inc.*, No. 6:15-cv-06569 EAW (W.D.N.Y.): Appointed co-lead class counsel in Rule 23(b)(2) health care provider data breach class; class settlement approved in April 2022 for injunctive relief plus \$4.35 million in fees and expenses. *Fero v. Excellus Health Plan, Inc.*, No. 6:15-cv-06569 EAW, 2022 WL 1292133 (W.D.N.Y. Apr. 29, 2022).

Seeger Weiss, LLP, Ridgefield Park, NJ
Partner, Litigation (April 2021 – December 2021)

D. Brooks Smith, U.S. Court of Appeals for the Third Circuit, Duncansville, PA
Law Clerk (2010-2011)

Christopher C. Conner, U.S. District Court for the Middle District of Pennsylvania, Harrisburg, PA
Law Clerk (2008-2010)

EDUCATION

William & Mary School of Law, Williamsburg, Virginia; Juris Doctor, May 2008

University of Chicago, Chicago, Illinois
Bachelor of Arts with Honors in Political Science; Bachelor of Arts in Philosophy, June 2003

COURT & BAR ADMISSIONS

New York, 2009

New Jersey, 2021

United States Court of Appeals for the Third Circuit, 2011; **Fifth Circuit**, 2012; **Second Circuit**, 2016

United States District Court, Southern and Eastern District of New York, 2014

United States District Court, Western District of New York, 2015

United States District Court, Northern District of New York, 2016

LEGAL COMMUNITY

Complex Litigation E-Discovery Forum (CLEF), Minneapolis, Minnesota
Board Member (2020 - present)

New York City Bar Association, New York, New York
Professional Responsibility Committee (2020 – present)

ELECTED OFFICE

Kings County Committee, Brooklyn, New York (2016 – present)

Kings County Democratic Party Judicial Delegate (2022 – present) (votes on judges to appear on ballot for county party; elected every two years)

6620 West Central Avenue
Suite 100
Toledo, Ohio 43617
Phone: 419-841-9623
Toll-Free: 888-841-9623
Fax: 419-841-9719
www.toledolaw.com



Michelle L. Kranz
Carasusana B. Wall*
Damon C. Williams
Ameena Alauddin
David W. Zoll‡
Donato J. Borrillo, M.D., J.D.*‡

March 13, 2023

Hon. Benita Y. Pearson
United States District Judge
313 Thomas D. Lambros United States
Federal Building and Courthouse
125 Market Street
Youngstown, OH 44503-1780

Re: HAROLD R. FREEZLE, ET AL., ETC. V. NORFOLK SOUTHERN RAILWAY CO.,
ET AL. *Case No. 4:23-cv-0242*

Dear Hon. Judge Pearson:

Pursuant to this Court's order dated March 8, 2023, please accept this letter application of Michelle L. Kranz of the Toledo, Ohio firm of Zoll & Kranz, LLC ("ZK"), for a leadership position as Plaintiffs' Liaison Counsel/Plaintiffs' Executive Committee in this litigation against Norfolk Southern Railway Co. Ms. Kranz brings the unique perspective and skill set of an Ohio attorney that has focused her practice on leading mass tort and consolidated actions. Ms. Kranz has personally worked with Jayne Conroy, Seth Katz, and Elizabeth Graham over the last ten years in numerous litigations and fully supports their appointment as Co-Leads.

As detailed below, Ms. Kranz is exceptionally qualified to serve this Court in light of her significant experience in numerous other consolidated actions and her continued appointment by federal courts to leadership roles in those cases. In addition, Ms. Kranz demonstrates her leadership abilities and commitment to Ohio in her current role as President-Elect of the Ohio State Bar Association. In addition, ZK can and will bring the necessary resources to a case that will likely be both complicated and expensive to litigate.

1. Relevant Professional Experience:

Ms. Kranz has dedicated her entire thirty years in practice to representing Plaintiffs in complex litigation at both the trial and appellate level. Ms. Kranz's experience with consolidated litigation began with *In Re: Sulzer Hip Prosthesis and Knee Prosthesis*, MDL 1401, when her partner David W. Zoll was assigned a leadership role by the Hon. Kathleen M. O'Malley. Over the last two decades, Ms. Kranz's practice has grown to become almost exclusively consolidated action litigation on both a federal and state level, including product liability, pharmaceutical, and anti-trust cases. Through this work, she has gained critical and valuable experience while serving in leadership roles described, in part, below. A full list of Ms. Kranz's court appointed leadership roles in various consolidated actions is set out in her curriculum vitae, attached as Exhibit A.

Ms. Kranz's most pertinent experience is as Liaison Counsel for *DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation* (MDL 2197). Appointed by the late Hon. David A. Katz, U.S. District Court, Northern District of Ohio, and continuing in that role under the Hon. Jeffrey J. Helmick. Ms. Kranz has had a very active Liaison role and been intimately involved with every aspect of that litigation.

Ms. Kranz's principle duties include maintaining regular communication with the Court and the over 900 hundred law firms (with over 11,000 member cases), developing and maintaining a Plaintiffs-only website that has become a model for attorney information and communication in an MDL, handling all the assessments and finances of the PEC and PSC, coordinating filing of MDL pleadings and discovery, maintaining common benefit time and expenses, and promptly communicating case and settlement developments. The Co-Leads and PEC in that case significantly expanded Ms. Kranz's role as Liaison Counsel and she was tasked with many additional leadership and litigation duties. Those additional responsibilities included federal and state coordination of depositions, taking key depositions, and bellwether selection, as well as being a member of the MDL trial team. Ms. Kranz oversaw the pre-trial briefing and was responsible for a variety of the oral arguments on Motions in Limine before Judge Katz. Most importantly, Ms. Kranz participated in all aspects of the settlement strategy and negotiations, resulting in the resolution of the first 8,000 cases for \$2.5 Billion dollars, and two subsequent global settlements in 2015 and 2017. In furtherance of those settlement efforts, Ms. Kranz was appointed to the Settlement Oversight Committee who has been responsible for the administration of the three global settlements. Ms. Kranz was also appointed to the Fee Committee. Ms. Kranz has a thorough understanding of the responsibilities of a Plaintiffs' Liaison Counsel in the Northern District of Ohio and the resources necessary to successfully fulfill those duties.

Ms. Kranz's most recent mass tort experience is in the *Gilead Tenofovir Cases and Consolidated Action*, California JCCP 5043. While initially appointed to the Plaintiffs' Steering Committee in 2020, Ms. Kranz was subsequently appointed to the Executive Committee in 2022.

In 2018, Ms. Kranz was one of five appointments by the Hon. James G. Carr of the Northern District of Ohio to sit on a commission to determine the compensation owed to certain landowners in a Federal Energy Regulatory Commission-related action arising from a natural gas pipeline (Case No. 3:17-cv-00225). The commission was led by Special Master David. R. Cohen.

Ms. Kranz was appointed to the Plaintiffs' Executive Committee by the Hon. Matthew F. Kennelly for *In Re: Testosterone Replacement Therapy Products Liability Litigation* (MDL No. 2545), Northern District of Illinois, a complex, multi-defendant MDL in 2014. Ms. Kranz not only participated in overall case management and strategy but was responsible and oversaw all aspects of case progress and development related to one of Defendants. Additionally, Ms. Kranz participated on trial teams for two bellwether trials against two other Defendants. In November 2018, Ms. Kranz was also appointed to the five-member Common Benefit Fee Committee.

Ms. Kranz was appointed to the Plaintiffs' Steering Committee in 2013 by the Hon. Matthew F. Kennelly of the Northern District of Illinois in the *In Re: Text Messaging Antitrust Litigation* (MDL 1997), and in 2012, by the Hon. Robert L. Miller, Jr., of the U.S. District of Indiana, for *In Re Biomet M2A Magnum Hip Implant Products Liability Litigation* (MDL 2391). In addition, Ms. Kranz also lent her experience in the area of Liaison Counsel to the appointed Liaison Counsel in the Biomet M2A Magnum MDL.

In addition to Ms. Kranz's leadership roles in litigation, she has extensive experience in a variety of leadership roles arising from her commitment to her profession and legal community that has fostered her ability to work effectively and cooperatively with others. Ms. Kranz is a proud member of the Ohio Bar and has always willingly served various local bar associations as well as the Ohio State Bar Association. On July 1, she will assume the duties of Ohio State Bar Association President. Ms. Kranz is currently the President-Elect for the Ohio State Bar Association, as well as serving on the Board of Governors for the Ohio State Bar Association, a Trustee for the Toledo Bar Association Foundation, and a Trustee for the National Civil Justice Institute. Ms. Kranz's other non-litigation leadership roles are detailed further in the attached curriculum vitae, Exhibit A.

2. Willingness and ability to immediately commit to time-consuming litigation: Ms. Kranz's commitment to Plaintiffs' and the Courts in complex, time-consuming consolidated litigations has been shown by the increasing number and significance of the roles she has been appointed to in multi-district

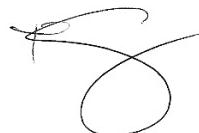
litigations over the last decade. Ms. Kranz is well-versed with the demands a litigation such as this places not only on her, but on her firm and its resources, and has more than fulfilled all her responsibilities and duties in each of the consolidated actions in which she accepted a leadership position. Ms. Kranz is prepared and capable of taking on whatever level of position this Court deems appropriate.

3. Willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel: Ms. Kranz's appointments to MDL leadership positions and those in the local, state, and national bar associations reflect her reputation professionally, particularly with the plaintiffs' bar. Ms. Kranz's experiences in both litigation and professional associations has deepened her commitment to cooperation, civility, organization, and communication in the litigation process. Ms. Kranz enjoys and values the challenges mass tort litigation offers and has developed an even greater appreciation for the importance of good will, hard work, reliability, and perseverance. Ms. Kranz endeavors to balance her zealous advocacy for her clients and the high level of professionalism and civility required of all attorneys, and, most particularly, of those selected for leadership roles in a consolidated litigation.

4. Access to resources available to prosecute this litigation in a timely manner: For more than thirty years, ZK has always been primarily a plaintiff practice, handling cases on a contingency fee basis and been focused on multi-district litigation for almost twenty years. As a smaller law office, the significant commitment of its resources in mass tort litigation is something ZK undertakes following a thorough analysis. ZK has done so here, as it has successfully for the last two decades, and has access to the necessary resources to assist in the prosecution of this litigation.

5. Willingness to serve as liaison counsel and as a member of the executive committee: While Ms. Kranz is willing to serve in whatever capacity the Court thinks is appropriate, she believes that the most appropriate role for her in this litigation is as Plaintiffs' Liaison Counsel and a member of the Plaintiffs' Executive Committee. Ms. Kranz is confident she possesses the requisite experience and knowledge to effectively fulfill the duties of Plaintiffs' Liaison Counsel.

Respectfully submitted,



Michelle L. Kranz

Michelle L. Kranz, Esq.

Partner at Zoll & Kranz, LLC

I have a diverse civil litigation practice and work with a broad range of individuals, businesses and municipalities. I have extensive litigation experience before both state and federal courts, as well as appellate court experience. My primary practice areas involve mass torts, specifically pharmaceuticals and medical devices, and anti-trust class actions. On July 1, 2023, I will be assuming the Presidency of the Ohio State Bar Association.

CAREER HIGHLIGHTS

- Plaintiffs' Liaison, *In re: DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation*, MDL 2197 (N.D. Ohio);
- Plaintiffs' Executive Committee, *Gilead Tenofovir Cases*, California JCCP 5043;
- Plaintiffs' Executive Committee and Fee Committee, *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL 2545 (N.D. Illinois);
- OneOhio Settlement Distribution Drafting Team and Signatory on behalf of Lucas, Fulton and Clark Counties, and the City of Springfield, *In re: National Prescription Opiate Litigation*, MDL 2804 (N.D. Ohio);
- Appointed by Hon. James G. Carr as a member of a FERC Commission in *Rover Pipeline, LLC v. Rohrs, et al.*, Case No. 17-cv-2470 (N.D. Ohio)

PROFESSIONAL ASSOCIATIONS & HIGHLIGHTS

Ohio State Bar Association

- 1993 to the present, Member
- 2022 - 2023 Ohio State Bar Association President-Elect
- Ohio State Bar Association Board of Governors
 - January 2019 to present, Member
 - 2022 to present, Chair of the Rule Practice Taskforce
 - 2017 to present, numerous Chair and Committee roles
 - 2018, Member, Ohio State Bar Association E-Vote Task Force
 - 2018, Member, Ohio State Bar Association Commission on Judicial Candidates
 - 2020, Member, Ohio State Bar Association Law Practice Modernization Task Force

Ohio State Bar Foundation

- 2004, Fellows Class
- 2010 - 2015; 2021 to present, Board of Trustees
- 2010 to present, numerous Chair and Committee roles

Michelle L. Kranz, Esq.

Partner at Zoll & Kranz, LLC

Toledo Bar Association

- 1993 to Present, Member
- 2004 - 2005, Toledo Junior Bar Association President
- 2015 - 2016, Toledo Bar Association President
- 2004 - 2017, Board of Directors
- 2017 to Present, Toledo Bar Association Foundation, Board of Trustees

Other Memberships

- 2018 to present, Trustee, National Civil Justice Institute
- 2019 to present, Northwest Ohio Susan G. Komen Board of Directors
- American Bar Association
- National Trial Lawyers Association
- Ohio Association for Justice
- American Association for Justice
- Federal Bar Association
- Wood County Beef Producers
- Ohio Cattlemen's Association
- Ohio Farm Bureau

AWARDS

- 2005 Recipient - Toledo Bar Association's Trustee Award
- 2007 Recipient - Ohio State Bar Foundation's District 4 Community Service Award
- 2015 Recipient - Wood County Beef Producer's Outstanding Member
- 2018 Recipient - Toledo Bar Association's Robert A. Kelb Service Award
- 2018 Recipient - Wood County Friend of 4-H Award

WORK EXPERIENCE

Zoll & Kranz, LLC

Toledo, OH

Co-Founder, 1999 to Present

Zoll & Associates, LLC

Toledo, OH

1993 - 1998

LITIGATION LEADERSHIP

- Liaison Counsel for *In Re: DePuy ASR Hip Implant Products Liability Litigation*, MDL 2197 (N.D. Ohio)
- Plaintiffs' Executive Committee Member for *Gilead Tenofovir Cases and Consolidated Actions*, California JCCP 5043

Michelle L. Kranz, Esq.

Partner at Zoll & Kranz, LLC

- OneOhio Settlement Distribution Drafting Team and Signatory on behalf of Lucas, Fulton and Clark Counties, and the City of Springfield for *In Re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio)
- Plaintiffs' Executive Committee Member for *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545 (N.D. Illinois)
- Fee Committee Member for *In Re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545 (N.D. Illinois)
- Settlement Oversight Committee (SOC) and Fee Committee for *In Re: DePuy ASR Hip Implant Products Liability Litigation*, MDL 2197 (N.D. Ohio)
- Appointed as a member of the Commission, led by Special Master David R. Cohen, in *Rover Pipeline, LLC v. Rohrs, et al.*, Case No. 17-cv-2470 (N.D. Ohio)
- Plaintiffs' Steering Committee Member for *In Re: Text Messaging Antitrust Litigation*, MDL 1997, (N.D. Illinois)
- Plaintiffs' Steering Committee Member for *In Re: Biomet M2A Magnum Hip Implant Products Liability Litigation*, MDL 2391 (N.D. Indiana)

COURT & BAR ADMISSIONS

- Ohio, 1993
- U.S. District Court Northern District of Ohio, 1993
- U.S. District Court Southern District of Ohio, 2006
- U.S. Court of Appeals, 6th Circuit, 1994
- U.S. Court of Appeals, 7th Circuit, 2007
- U.S. District Court Northern District of Illinois, 2014
- U.S. Bankruptcy Court for the Northern District of Ohio, 1994
- U.S. Supreme Court, 1998

EDUCATION

- University of Toledo College of Law, 1993
- Miami University, 1990 Cum Laude



Daniel R. Karon

KARON LLC

700 W. St. Clair Ave., Suite 200
Cleveland, OH 44113-1998
Telephone: (216) 622-1851
Facsimile: (216) 241-8175
Email: dkaron@karonllc.com
Web: www.karonllc.com

SUMMARY

Mr. Karon is a class-action trial attorney specializing in antitrust, consumer-fraud, and wage-and-hour litigation. He began his class-action career with Much Shelist Freed Denenberg Ament & Rubenstein, P.C. in Chicago. He now manages Karon LLC. He represents individuals in antitrust, consumer-fraud, wage-and-hour, and other class-actions, and he has represented domestic and international corporations in domestic and international antitrust class-action matters. He also defends corporations in consumer-fraud and antitrust class actions.

Mr. Karon teaches consumer law at the University of Michigan Law School and The Ohio State University College of Law and taught complex litigation at Columbia Law School. He has also been a lecturer in law at Cleveland State University's Cleveland-Marshall College of Law. He lectures on class-action law at multiple other law schools and serves on Loyola University Chicago School of Law's Institute for Consumer Antitrust Studies' U.S. Advisory Board. He chairs the ABA's National Institute on Class Actions, writes a bimonthly column for Law360, was an editorial board member and contributing author to the ABA's Litigation Section's *Class Actions Today-Jurisdiction to Resolution* magazine, was a member of the Ohio Association of Justice's Board of Trustees, and served as an editorial board member for the Ohio Academy of Justice's *Ohio Trial* magazine. He has published multiple law review and bar journal articles on class-action topics, and he lectures nationally on class actions for the ABA and other bar associations.

In addition to various antitrust and consumer-fraud class actions, Mr. Karon was extensively involved in the *LCD-TFT Indirect Purchaser Antitrust Litigation* (nationwide price-fixing class action that settled for \$1.1 billion), *Vitamins Direct Purchaser Antitrust Litigation* (nationwide price-fixing class action that resolved for \$2 billion), *NASDAQ Market-Makers Antitrust Litigation* (nationwide price-fixing class action that settled for \$1.027 billion), *Cathode Ray Tubes (CRT) Antitrust Litigation* (nationwide price-fixing class action that settled for \$500 million), *Monosodium Glutamate Antitrust Litigation* (nationwide price-fixing class action that settled for \$130 million), *Methionine Antitrust Litigation* (nationwide price-

fixing class action that settled for \$101 million), and *Sorbates Direct Purchaser Antitrust Litigation* (nationwide price-fixing class action that settled for \$94.5 million). He serves or served as lead counsel in multiple cases, including *Magnesium Oxide Antitrust Litigation*, *Aftermarket Sheet Metal Indirect Purchaser Antitrust Litigation*, *City of Lorain v. Medical Mutual Insurance Co.*, *Dairy Indirect-Purchaser Antitrust Litigation*, *Johnson v. Evangelical Lutheran Church of America*, *Schwartz v. Avis Rent-A-Car Corp.*, *Klein v. Budget Rent-A-Car Group*, *Bausch & Lomb Contact Lens Product Liability Litigation*, *Roth v. Life Time Fitness*, and *Schwartz v. Alltel Corp.* He is on the executive committee in the *Beef Antitrust Litigation*, was discovery co-chair in the *Bulk Graphite Antitrust Litigation*, class-certification co-chair in the *Pressure Sensitive Labelstock Antitrust Litigation*, and briefing co-chair in the *EPDM Antitrust Litigation* and *Carbon Black Antitrust Litigation*.

EDUCATION

J.D., 1991

Michael E. Moritz College of Law, The Ohio State University

Member, *The Ohio State Journal on Dispute Resolution*

Quarterfinalist, First-Year Moot Court Competition

B.A., Speech Communication and Rhetorical Studies, 1988

Certificate, Jewish Studies, 1988

Indiana University-Bloomington

Dean's List, 1984–1987

TEACHING EXPERIENCE

Lecturer in Law, University of Michigan Law School

January 2020–Present

Consumer law

Lecturer in Law, Columbia Law School

January 2018–August 2019

Complex litigation and class-action law

Lecturer in Law, Michael E. Moritz College of Law, The Ohio State University

January 2022–Present

Complex litigation and consumer law

Lecturer in Law, Cleveland-Marshall College of Law, Cleveland State University

February 2005–2007

Class-action law

Lecturer, Northwestern Law School

September 2022

Leadership and branding

Lecturer, Michael E. Moritz College of Law, The Ohio State University
February 2008–Present
Class-action law

Lecturer, Columbia Law School
February 2013–February 2017
Class-action law

Lecturer, University of Michigan Law School
October 2018
Class-action law

Lecturer, Vanderbilt Law School
April 2013
Class-action law

Lecturer, Notre Dame Law School
February 2015
Class-action law

Lecturer, Tulane Law School
November 2013
Class-action law

Lecturer, University of Georgia School of Law
November 2015
Class-action law

University of San Francisco School of Management
January 2021
Class-action law

Lecturer, Benjamin N. Cardozo School of Law, Yeshiva University
April 2014
Class-action law

Lecturer, Loyola University Chicago School of Law
November 2013, February 2019, October 2020
Class-action law

BAR ADMISSIONS

United States Court of Appeals for the Third Circuit 2016

United States District Court for the Eastern District of Michigan, 2015

United States Court of Appeals for the Sixth Circuit 2013

United States District Court for the Southern District of Ohio, 2004

United States District Court for the Northern District of Ohio, 1998

United States Court of Appeals for the Seventh Circuit, 1995

United States District Court for the Northern District of Illinois, 1991

Ohio, 1997

Illinois, 1991

CLASS-ACTION EXPERIENCE

Karon LLC, Cleveland, OH

Owner, 2014–Present

Goldman Scarlato Karon & Penny, P.C., Cleveland, OH

Owner, 2002–2014

Gallagher Sharp Fulton & Norman, Cleveland, OH

Attorney, 2000–2002

Law Offices of Daniel R. Karon, Cleveland, OH

Owner, 1998–2000

Much Shelist Freed Denenberg Ament & Rubenstein, P.C., Chicago, IL

Attorney, 1994–1998

PUBLICATIONS

A Letter to New (and Old) Lawyers: Why You Need to Write Well and How to Do It, 20 SCRIBES J. OF
LEGAL WRITING 93 (2022)

The cure for COVID nobody is talking about, CLEVELAND PLAIN DEALER (Jan. 2, 2022)

To Vax or Not to Vax is Not a Constitutional Question, LAW360 (Nov. 19, 2021)

3 Keys to Winning Your Next Oral Argument, LAW360 (June 14, 2021)

Surefire Marketing Methods To Build Your Legal Practice, INT'L COMPARATIVE LEGAL GUIDES (Apr.
14, 2021)

Top 10 Techniques for Crafting a Dazzling Brief, INT'L COMPARATIVE LEGAL GUIDES (Apr. 14, 2021)

Simple Secrets for Writing a Killer Brief, INT'L COMPARATIVE LEGAL GUIDES (Apr. 14, 2021)

In the room where it's happening, CLEVELAND PLAIN DEALER (Apr. 11, 2021)

The Problem—and Opportunity—of Implicit Bias in the Bar, AMERICAN INNS OF COURT (Mar. 22, 2021)

What the Biden Administration Means for Class Actions, LAW360 (Feb. 11, 2021)

To Mask or Not to Mask? Not a Constitutional Question, THE CLS BLUE SKY BLOG—COLUMBIA LAW SCHOOL BLOG ON CORPORATIONS AND THE CAPITAL MARKETS (Oct. 27, 2020)

Companies Should Not Illegally Profit From Our Pandemic Pain, LAW360 (Apr. 15, 2020)

Surefire Marketing Methods to Build Your Legal Practice, LAW360 (Jan. 28, 2020)

The Problem—and Opportunity—of Implicit Bias in the Bar, LAW360 (Oct. 2, 2019)

Why Can't We All Just Get Along?, 45:3 LITIGATION 8 (Winter 2019)

Ten Techniques for Crafting a Dazzling Brief, LAW360 (June 21, 2019)

"Can't We All Just Get Along?" Civility Across the V., THE BENCHER (May/June 2019)

Simple Secrets for Writing a Killer Brief, LAW360 (Feb. 28, 2019)

Class Action Strategy & Practice Guide, Chapter 8, Managing Multiple Class and Enforcement Actions (2019)

Simple Secrets for Improving Your CLE, LAW360 (Nov. 14, 2018)

Kavanaugh and the Confirmation of Third-Branch Bias, OurFuture.org (Oct. 9, 2018)

It's Prime Time for a Dose of Reality on Brett Kavanaugh, LAW360 (Aug. 2, 2018)

After Trump's Policy Purges, Who Speaks for the Victims?, LAW360 (May 2, 2018)

Why Contempt for the CFPB Is a Big Business Mistake, LAW360 (Oct. 28, 2017)

How Plaintiffs and Defense Counsel Misperceive Each Other, LAW360 (Sept. 25, 2017)

Why "Class Action Attorney Fees" Are Such Dirty Words, NATIONAL ASSOCIATION OF LEGAL FEE ANALYSIS (July 18, 2017)

Why "Class Action Attorney Fees" Are Such Dirty Words, LAW360 (July 14, 2017)

Bundle Up Defense Counsel. Winter's Coming. LAW360 IN-DEPTH (May 2, 2017)

Killing Class Actions Means Everybody Loses, THE CLS BLUE SKY BLOG—COLUMBIA LAW SCHOOL BLOG ON CORPORATIONS AND THE CAPITAL MARKETS, (Apr. 7, 2017)

The Death of Class Actions?, ACSBLOG, AMERICAN CONSTITUTION SOCIETY (Mar. 3, 2017)

Killing Class Actions Means Everybody Loses, LAW360 (Mar. 17, 2017)

The “Fairness” in Class Action Litigation Act, 42:4 LITIGATION 8 (Summer 2016)

Dow Chemical’s Post-Scalia Settlement is a Spin Doctor’s Delight, THE NATIONAL LAW JOURNAL, SUPREME COURT BRIEF (Apr. 25, 2016)

Dow Chemical’s Post-Scalia Settlement is a Spin Doctor’s Delight, THE NATIONAL LAW JOURNAL (Apr. 25, 2016)

Federal Class-Action Reform Effort Courts Serious Risks, CLEVELAND PLAIN DEALER (Nov. 20, 2015)

Is it CAFA or Kafka? Effectively Pleading Multistate Class-action cases after the Class Action Fairness Act, THE OHIO ASSOCIATION FOR JUSTICE QUARTERLY 21 (Oct. 2014)

Reflections from the 2013 National Institute on Class Actions, 24 ABA’s CLASS ACTIONS & DERIVATIVE SUITS 1 (Fall 2013)

Suspicionless Strip Searches—What's Next?, 39:1 LITIGATION 8 (Winter 2013)

Ripped from the Headlines—Ten Lawyers Look at the Story, 38:2 LITIGATION 25 (Winter 2012)

“T’was Three Years After Twombly and All Through the Bar, Not a Plaintiff Was Troubled From Near or From Far.” The Unremarkable Effect of the U.S. Supreme Court’s Re-expressed Pleading Standard in Bell Atlantic Corp. v. Twombly, 44 U.S.F. L. REV. 571 (2010)

The Unremarkable Effect of Bell Atlantic Corp. v. Twombly on Pleading Class-Action Complaints, 11:2 ABA’s COMM&L & BUS. LITIG. 6 (Spring 2010)

Is it CAFA or Kafka, AAJ’s TRIAL MAGAZINE 24 (July 2009)

ABA’s Consumer Protection Law Developments, Chapter 5 State Consumer Law, § 36 Ohio (2009).

“When Congress Gives You Lemons . . .” Plaintiffs’ Attorneys are Forced by the Class Action Fairness Act to Devise Innovative New Ways to Prosecute Interstate Class Actions, PLAINTIFF MAGAZINE 1 (Feb. 2008)

Multi-State Class Actions After CAFA—Preserving Consumers’ Rights by Pleading Creatively, ABA’s CLASS ACTIONS TODAY 9 (2007)

“How Do You Take Your Multi-State, Class action Litigation? One Lump or Two?” Infusing State Class action Jurisprudence into Federal, Multi-State Class-Certification Analyses in a “CAFA-nated” World, 46 SANTA CLARA L. REV. 567 (2006)

Unjust Enrichment’s Application to Consumer Price fixing, Class action Claims, 16 ABA’s CLASS ACTIONS & DERIVATIVE SUITS 1 (Winter 2006)

Undoing the Otherwise Perfect Crime. Applying Unjust Enrichment to Consumer Price fixing Claims, 108 W. VA. L. REV. 395 (2005)

A Non-Class-action lawyer’s Guide to Ohio Consumer Class Actions—Understanding the Basics and Recognizing Opportunities, 14:3 OHIO TRIAL 26 (2005)

Price Fixing and Market Allocation—What to Avoid, What to Watch For, 2.2 ABA’S ANTITRUST COUNSELOR 1 (2005)

“Your Honor, Tear Down that Illinois Brick Wall!” The National Movement Toward Indirect Purchaser Antitrust Standing and Consumer Justice, 30 WM. MITCHELL L. REV. 1351 (2004)

Price Fixing, Market Allocation and Bid Rigging Conspiracies: How to Counsel Your Clients to Detect Violations and Inform You of Potential Claims, 25 AMER. J. TRIAL ADVOC. 241 (2002)

Collusion Central. Helping Your Clients Deal with Price Fixers, 11:3 ABA’S BUS. L. TODAY 9 (2002)

A Practitioner’s Primer on Securities Fraud Class Action Litigation, 69:6 CLEV. BAR J. 8 (1998)

Kicking Our Gift Horse in the Mouth—Arbitration and Arbitrator Bias: Its Source, Symptoms and Solutions, 7 OHIO ST. J. ON DISP. RESOL. 315 (1992)

Winning Isn’t Everything, It’s the Only Thing. Violence in Professional Sports: The Need for Federal Regulation and Criminal Sanctions, 25 IND. L. REV. 147 (1991)

SPEAKING ENGAGEMENTS

Featured speaker, Top Class Actions company retreat, Scottsdale, AZ, Dec. 8, 2022

Moderator, ABA’s 26th Annual National Institute on Class Actions, “Saddle Up! It’s High Time for Learnin’ to Wrangle Some Class-Action Business,” Scottsdale, AZ, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee, Nov. 10–11, 2022

Panelist, “Emerging and Evergreen Issues in Class Actions,” Sixteenth Annual Judicial Symposium on Civil Justice Issues, George Mason University Antonin Scalia Law School in Arlington, VA, Oct. 9, 2022

Program Chair and Moderator, ABA's 25th Annual National Institute on Class Actions, Class-Action Connipition! How In-House Counsel Lasso Class Actions on "Class Actions Live!", Gather 'Round the Campfire for the Tale of Arthur Miller's Lifetime Contribution to Class Actions, Mamas, Don't Let Your Babies Grow Up to be Class-Action Lawyers (or at Least Make Sure They Look Before They Leap, Austin, TX, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee, Apr. 12–13, 2022

Speaker, "US Securities Fraud Class Actions," Annual Conference of the Financial Street Forum hosted by the People's Government of Beijing Municipality, the People's Bank of China, Xinhua News Agency, China Banking and Insurance Regulatory Commission, China Securities Regulatory Commission, and the State Administration of Foreign Exchange, Beijing, China, Oct. 22, 2021

Speaker, "Quarterly Section Meeting—Consumer Law," Ohio Association for Justice, April 27, 2021

Speaker, "The Not-Unconstitutionality of Mask Mandates," Irish-American Law Society, April 21, 2021

Speaker, "Business Development & Networking: Advice on Steps to Take Today," Cleveland Metropolitan Bar Association, February 22, 2021

Speaker, "New Trends in Consumer Law," Ohio Association for Justice, February 11, 2021

Speaker, Kappa Alpha Pi Pre-Law Fraternity, University of Michigan, November 17, 2020
Program Chair and Moderator, ABA's 24th Annual National Institute on Class Actions, "Interview with Rep. Katie Porter and Rich Cordray," October 13–15, 2020, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Panelist, "Ethical Issues in Class Actions," NCLC Annual Consumer Rights Litigation Conference, Boston, MA, November 14–17, 2019, sponsored by the National Consumer Law Center

Program Chair and Moderator, ABA's 23rd Annual National Institute on Class Actions, "Second to None. Class Actions 101," "Write to the Point. Class Actions 201," Nashville, TN, October 17–18, 2019, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Speaker, AAJ's 2019 Annual Convention, "The Craft of Beautiful Legal Writing," San Diego, CA, July 28, 2019, sponsored by American Association for Justice

Program Chair and Moderator, "Who Needs *Playhouse Square?*" Class Certification from A(rsenio) to (O)Z: A Three-Act Play," Cleveland, OH, March 13, 2019, sponsored by the William K. Thomas Inns of Court

Speaker, "Class Actions 101," January 17, 2019, New York, NY, sponsored by the New York State Bar Association

Panelist, “Why Antitrust Matters,” October 30, 2018, Cleveland, OH, sponsored by the ABA’s Antitrust Section

Program Chair and Moderator, ABA’s 22nd Annual National Institute on Class Actions, “Second to None. Class Actions 101,” “Write to the Point. Class Actions 201,” Chicago, IL, October 18–19, 2018, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Panelist, GMA Legal Conference, “What in the World was He Thinking? A Look Inside the Mind of a Plaintiff’s Attorney, and How to Respond,” February 26–27, 2018, sponsored by the Grocery Manufacturers Association

Plenary Moderator, ABA’s Corporate Counsel Seminar, “Class Actions Scared Straight: Real Class-Action Stories, Strategies, and Solutions from Both Sides of the ‘v.,’” La Quinta, CA, February 17, 2018, sponsored by the ABA’s Corporate Counsel Section

Panelist, ABA Environmental & Energy, Mass Torts, and Products Liability Litigation Committees’ Joint CLE Seminar, “Brave New World: Perspectives on the Regulatory and Legal Landscape One Year into Trump’s Administration,” January 27, 2018, Whistler, BC, sponsored by the ABA’s Environmental & Energy, Mass Torts, and Products Liability Litigation Committees

Panelist, Harris Martin Plaintiff Opioid MDL Conference, “Third-Party Payor, Class, and Hospital Claims,” January 8, 2018, sponsored by Harris Martin

Program Chair and Moderator, ABA’s 21st Annual National Institute on Class Actions, “Debating the Language. Class Actions 101,” “Let’s Vote on It. Class Actions 201,” “Join the Writing Revolution. Class Actions 301,” “Build That Wall . . . or Maybe Not. H.R. 985 and the End of Class Actions?” Washington, DC, October 26–27, 2017, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Speaker, AAJ’s 2017 Annual Convention, “How to Grow Your Practice by Recognizing Antitrust Cases” and “The Art of Beautiful Legal Writing,” Boston, MA, July 22, 2017, sponsored by American Association for Justice

Speaker, AAJ Continuing Legal Education Conference, “The Future of Class Actions: Teamwork, Savvy Defense, and Smart Offense,” Nashville, TN, May 11, 2017, sponsored by American Association for Justice

Panelist, GMA 2017 Legal Conference, “Fighting Back Against Class Action Litigation,” San Diego, CA, February 27–28, 2017, sponsored by the Grocery Manufacturers Association

Panelist, OSBA Federal Courts & Practice Committee Bench Bar Conference, “Class Certification Analysis after *Duke & Comcast*,” October 27–28, 2016, sponsored by the Ohio State Bar Association

Program Chair and Moderator, ABA's 20th Annual National Institute on Class Actions, "Coming Out!" It's Class Actions 101," "Box the Trifecta.' Let's Play Class Actions 301," "From Mirage to Immense.' The Genesis, Creation, and Evolution of Rule 23 with Professor Arthur Miller," and "Hitting the Jackpot? A One-on-One Class-Action Conversation with Judge Richard Posner," Las Vegas, NV, October 19–20, 2016, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Panelist, "No BigLaw? No Problem! How Small-Firm Plaintiff and Defense Lawyers Are Managing Some of the Largest Class-Action Litigation Matters," May 27, 2016, sponsored by the ABA

Panelist, "Cross-Industry Interdisciplinary Summit on Class Actions," New York, NY, April 11–12, 2016, sponsored by American Conference Institute

Panelist, "Is this CAFA or Kafka? Multi-State Actions in a Time of Metamorphosis," Litigation Section Annual Conference, Chicago, IL, April 14, 2016, sponsored by the ABA

Program Chair and Moderator, ABA's 19th Annual National Institute on Class Actions, "Who Dat?!" It's the Return of Class Actions 101 and Class Actions 201" and "You Have a Choice, *Picayune*—'Economic Loss' or 'No-Injury' Class Actions. Either Way, Does a Legal Claim Exist?" New Orleans, LA, October 22–23, 2015, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Program Chair, "Antitrust for Non-Antitrust Lawyers: How to Grow Your Business by Recognizing New Opportunities," National Teleseminar, January 15, 2015, sponsored by American Association for Justice

Program Chair and Moderator, ABA's 18th Annual National Institute on Class Actions, "Second to None. Class Actions 101" and "Who Needs *The Second City*?" Class Certification from A(kroyd) to (Lovit)Z: A Three-Act Play," Chicago, IL, October 23–24, 2014, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Lecturer, Ohio Association of Justice's Annual Convention, "Class Actions for Non-Class Action Attorneys. How to Grow Your Business by Recognizing New Opportunities," Columbus, OH, May 8, 2014, sponsored by Ohio Association for Justice

Panelist, Article III Standing and Rule 23(b)(3) Certification: Emerging Litigation Trends, December 3, 2013, National Teleseminar, sponsored by Strafford Publications

Program Chair and Moderator, ABA's 17th Annual National Institute on Class Actions, "Listen Co-Counsel, You'll Learn a Ton, It's Time for Class Actions 101" and "Show Me the Money!!! . . . or Don't.' *Cy Pres* Recoveries, Requests for Attorneys' Fees, and Does This Amount to a Hill of Beans?" Boston, MA, October 23–24, 2013, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Panelist, Ohio State Bar Association's 2012 Great Lakes Antitrust Institute, "New Developments in Antitrust Law," Columbus, OH, November 2, 2012, sponsored by the Ohio State Bar Association

Program Chair and Moderator, ABA's 16th Annual National Institute on Class Actions, ““The Class Definition that Works . . . or Does It? Strategies for Pleading and Attacking Class Definitions—The Most Basic and Most Ignored Step in a Class-action lawsuit’s Success or Failure,” Chicago, IL October 25, 2012, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Program Chair and Moderator, “Reexamining the Class Action Practice and Considering Where it—Indeed, *We*—Go From Here,” Chicago, IL, August 3, 2012, sponsored by the ABA

Moderator and Panelist, “Everything MDL. First-Hand Perspectives from MDL Panel Judges, MDL District Court Judges, and MDL Lawyers,” Cleveland, OH, July 25, 2012, sponsored by the Cleveland Metropolitan Bar Association and the Federal Bar Association, Northern District of Ohio Chapter

Panelist, “Litigating Class Actions Between Class Certification and Trial,” National Teleseminar, January 31, 2012, sponsored by Strafford Publications

Panelist, “Trends in Federal Circuit Class Certification Rulings,” National Teleseminar, January 19, 2012, Law Seminars International

Program Chair and Moderator, ABA’s 15th Annual National Institute on Class Actions, “The Practice that Never Sleeps: Reexamining the Class action Practice and Considering Where it—Indeed, *We*—Go From Here,” New York, NY, October 14, 2011, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Panelist, *Wal-Mart v. Dukes*, Practical Implications of the Supreme Court’s Landmark Class Action Ruling, National Teleseminar, June 30, 2011, sponsored by Law Seminars International

Panelist, ABA’s 59th Annual Antitrust Law Spring Meeting, “Guilt by Association? Trade Associations, Cartel Investigations, and *Twombly*,” Washington, D.C., March 30, 2011, sponsored by the ABA’s Antitrust Law Section

Panelist, “Pleading and Defending Class Actions: Leveraging the Latest Developments in CAFA Removal Jurisdiction,” National Teleseminar, December 8, 2010, sponsored by Strafford Publications

Panelist, “Litigating Class Actions Between Class Certification and Trial,” National Teleseminar, November 2, 2010, sponsored by Strafford Publications

Program Chair and Moderator, ABA’s 14th Annual National Institute on Class Actions, ““The Standard that Works . . . or Does It?” Deciding Choice-of-Law and Reliance/Causation/Deception Standards in Multistate, Consumer fraud Class actions After CAFA,” Chicago, IL, October 14, 2010, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Panelist, “Consumer Class action Litigation: Leveraging New Developments in Class Certification, Causation, and Reliance,” National Teleseminar, April 20, 2010, sponsored by Strafford Publications

Panelist and Moderator, ABA's 13th Annual National Institute on Class Actions, "A Funny Thing Happened on the Way to the Courthouse . . . I Had to Litigate an Arbitration Clause! Crafting, Opposing, and Arguing Arbitration Clauses and Class action Waivers in Three Scenes," Washington DC, November 20, 2009, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Panelist and Moderator, ABA's 13th Annual National Institute on Class Actions, A Funny Thing Happened on the Way to the Courthouse . . . I Had to Litigate an Arbitration Clause! Crafting, Opposing, and Arguing Arbitration Clauses and Class action Waivers in Three Scenes, San Francisco, CA, October 30, 2009, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Panelist, "Litigating Class Actions Between Class Certification and Trial," National Teleseminar, August 11, 2009, sponsored by Strafford Publications

Panelist, "It Ain't Over Till it's Over: Litigating Class Actions After Class Certification and Before Trial," National Teleseminar, May 27, 2009, sponsored by ABA Litigation Section

Panelist, "Antitrust 101: Understanding, Pleading, and Defending Price fixing Claims," ABA Brown Bag Teleseminar, February 18, 2009, sponsored by the ABA's Section on Litigation

Panelist, "Pleading, Defending, and Settling Class Actions. Emerging Trends," National Teleseminar, December 9, 2008, sponsored by Strafford Publications

Panelist, Ohio State Bar Association's 2008 Antitrust Program, "When Opportunity Knocks . . . Growing Your Business or Company's Bottom Line by Recognizing When, Whether, and How to Pursue Class action, Price fixing Claims," Columbus, OH, November 14, 2008, sponsored by the Ohio State Bar Association

Panelist and Moderator, ABA's 12th Annual National Institute on Class Actions, "I Could Have Sworn It was CAFA, *not Kafka!* The Metamorphosis of Pleading, Defending, and Settling Multi-State Class Actions—A Surreal-Life, Three-Act Play," New York, NY, November 7, 2008, sponsored by the ABA's Litigation Section's Class Action and Derivative Suits Committee

Lecturer, "Class Actions: Growing Your Business by Understanding the Basics and Recognizing Opportunities," Cleveland, OH, October 31, 2008, sponsored by the Cleveland Bar Association

Panelist, "Pleading, Defending, and Settling Class Actions. Emerging Trends," National Teleseminar, May 13, 2008, sponsored by Strafford Publications

Panelist, Ohio Association for Justice's 2008 Annual Convention, "New Developments in Plaintiffs' Antitrust Law," Columbus, OH, May 9, 2008, sponsored by the Ohio Association for Justice

Lecturer, "Class Actions for Non-Class-action lawyers. Growing Your Business by Understanding the Basics and Recognizing Opportunities," Los Angeles, CA, February 21, 2008, sponsored by the Los Angeles County Bar Association

Panelist, “Class Action Removal Standards in Flux. New Litigation Strategies for Plaintiff and Defense Counsel,” National Teleseminar, February 19, 2008, sponsored by Strafford Publications

Panelist and Moderator, ABA’s 11th Annual National Institute on Class Actions, “The Nationwide Class: White Elephant, Endangered Species, or Alive and Well?” Chicago, IL, October 19, 2007, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Panel Co-Chair, ABA’s 2007 Annual Meeting, “Is this CAFA or Kafka? Multi-State Class Actions in a Time of Metamorphosis—A Surreal-Life, Three-Act Play,” San Francisco, CA, August 9–12, 2007, sponsored by the ABA

Panelist, ABA’s 2007 Litigation Section Annual Conference, “The Last Laugh-Perspectives on CAFA,” San Antonio, TX, April 11–14, 2007, sponsored by the ABA

Lecturer, “Class Actions for Non-Class-action lawyers,” Los Angeles, CA, February 23, 2007, sponsored by the Los Angeles County Bar Association

Moderator, ABA’s 10th Annual National Institute on Class Actions, Chicago, IL, October 27, 2006, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Lecturer, “The Business Litigation Seminar,” Cleveland, OH, June 21, 2006, sponsored by the Cleveland Bar Association

Featured Speaker, “Price Fixing and Market Allocation Schemes in the Commodity Chemicals Business—How to Avoid Being a Victim,” Cleveland, OH, June 16, 2006, sponsored by the Cleveland Chemical Association

Lecturer, “Class Actions: Growing Your Business by Understanding the Basics and Recognizing Opportunities,” Cleveland, OH, June 6, 2006, sponsored by the Cleveland Bar Association

Lecturer/Panelist, “Civil Practice and Litigation Techniques in Federal and State Courts,” Charleston, SC, May 31, 2006, sponsored by ALI-ABA

Lecturer, “Class Actions for Non-Class-action lawyers,” Los Angeles, CA, February 25, 2006, sponsored by the Los Angeles County Bar Association

Lecturer, “Class Actions: Growing Your Business by Understanding the Basics and Recognizing Opportunities,” Cleveland, OH, December 6, 2005, sponsored by the Cleveland Bar Association

Lecturer, “Class Actions: Growing Your Business by Understanding the Basics and Recognizing Opportunities,” Cleveland, OH, November 18, 2005, sponsored by the Cuyahoga County Bar Association

Featured Speaker, “Price Fixing and Market Allocation Schemes in the Commodity Chemicals Business—How to Avoid Being a Victim,” Pittsburgh, PA, November 11, 2005, sponsored by the Pittsburgh Chemical Association

Moderator, “ABA’s 9th Annual National Institute on Class Actions,” Chicago, IL, September 23, 2005, sponsored by the ABA’s Litigation Section’s Class Action and Derivative Suits Committee

Featured Speaker, “Price Fixing and Market Allocation Schemes in the Commodity Chemicals Business—How to Avoid Being a Victim,” Cleveland, OH, September 16, 2005, sponsored by the Cleveland Chemical Association

Featured Speaker, “Price Fixing and Market Allocation Schemes in the Commodity Chemicals Business—How to Avoid Being a Victim,” Vail, CO, July 26, 2005, sponsored by the OC Chemical Dealers’ Association

Lecturer, “Class Actions: Growing Your Business by Understanding the Basics and Recognizing Opportunities,” Cleveland, OH, May 20, 2005, sponsored by the Cleveland Bar Association

Lecturer, “Class Actions for Non-Class-action lawyers,” Miami, FL, May 13, 2005, sponsored by Lighthouse Seminar Group, Dallas, TX

Lecturer, “Class Actions for Non-Class-action lawyers: Understanding the Basics and Recognizing Opportunities,” Phoenix, AZ, March 25, 2005, sponsored by the Maricopa County Bar Association

Lecturer, “Class Actions for Non-Class-action lawyers,” Chicago, IL, January 21, 2005, sponsored by Lighthouse Seminar Group, Dallas, TX

Lecturer, “Recognizing Class Action Opportunities,” Columbus, OH, December 12, 2004, sponsored by the Columbus Bar Association

Lecturer, “Class Actions: Understanding the Basics and Recognizing Opportunities,” Cleveland, OH, May 28, 2004, sponsored by the Cleveland Bar Association

Lecturer, “Select Topics for Trial Lawyers, A Primer on Class Actions for the Non-Class Action Litigator in New York,” New York, NY, August 11, 2004, sponsored by Lorman Educational Services, Eau Claire, WI

Lecturer, “The Business Litigation Seminar—Advanced Tactics and Motions,” Cleveland, OH, December 12, 2003, sponsored by the Cleveland Bar Association

Lecturer, “Community Litigation Workshop,” Detroit, MI, June 5, 1998, sponsored by the Firearms Litigation Clearinghouse, Washington D.C.

PROFESSIONAL ACTIVITIES

American Bar Association, 2003–Present

Chairperson, National Institute on Class Actions, 2010–2022

Litigation Section, Co-Chair, Class Action and Derivative Suits Committee's Antitrust Subcommittee, 2007–2008

Antitrust Section, 2008–2010

Host, Your Lovable Lawyer, www.yourlovablelawyer.com, 2020–Present

Contributor, A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* (2012)

Law360, Columnist, 2017–2022

American Society of Writers on Legal Subjects, 2004–Present

Law Review Award Committee, 2004–2009

Brief-Writing Committee, 2004–2009

American Association for Justice, 1998–Present

Co-Chair, Class Action Litigation Group, 2018–2020

Co-Vice Chair, Class Action Litigation Group, 2016–2018

Secretary, Class Action Litigation Group, 2015–2016

Litigation Group Leaders Council, 2018–Present

Co-Chair, Antitrust Subcommittee, 2016–Present

Vice Co-Chair, Antitrust Subcommittee, 2015–2016

ABA Liaison Committee, 2014–Present

Rule 23 Subcommittee, 2014–Present

Loyola Chicago Consumer Law Review Advisory Board, 2018–Present

The William K. Thomas American Inn of Court—American Inns of Court, 2018–Present

Class Action Trial Lawyers' Association, 2011–Present

Executive Committee, 2011–Present

Cleveland Bar Association, 1997–2009

National Association for Consumer Advocates, 2003–2013

BOARD MEMBERSHIPS AND CIVIC ACTIVITIES

Ohio Association for Justice, 2003–Present

Board of Trustees, 2012–2016

Chair, Consumer Law Section, 2014–2016

Nueva Luz Urban Resource Center

Board Member, 2021–2022

Cleveland Metropolitan Bar Association, Multidistrict Litigation Task Force, 2010–2012

Consumer-law correspondent, Your Legal Minute with the Lovable Lawyer, The Weekly Pulse, WKYC-Cleveland, 2018–2019

Loyola University Chicago School of Law, Institute for Consumer Antitrust Studies' U.S. Advisory Board, 2004–Present

IUvisors Student Advisors, Indiana University Alumni Foundation, 2014–Present

Student Mentor, Loyola Consumer Antitrust Institute's Mentoring Program, Loyola University Chicago School of Law, 2018–Present

Antitrust Section Council Member, Ohio State Bar Association, 2007–Present
Great Lakes Antitrust Institute Planning Committee, 2013

Cleveland Legal Aid Society
Volunteer Attorney, 2014–2016

Public Justice, 2011–Present

Editorial Board, Ohio Academy of Trial Lawyers' *Ohio Trial* Magazine, 2004–2010

Class Action Advisory Board, Strafford Legal Publications, 2008–Present

Editorial Board, American Bar Association, Litigation Section's *Class Actions Today. Jurisdiction to Resolution* (special publication), 2007–2008

Assistant Coach, Northern Ohio Warriors Traveling Youth Baseball Club, 2014–2016

Fellow, Litigation Counsel of America Trial Lawyer Honorary Society, 2008–2010

Women's Community Foundation, Men's Executive Committee, 2004–2010

Judge, Landskroner Foundation for Children's 9th Annual Law Student Closing Argument Competition, 2007

Anti-Defamation League's Steinberg Leadership Institute, 1998–2000

Associate Attorney's Committee Co-Chair, Lawyers' Division, Jewish Federation of Metropolitan Chicago, 1995–1997

DePaul University College of Law, Moot Court Judge, 1993–1994

Sigma Alpha Mu, Sigma Zeta Housing Corporation, 2004–2009

Young Leadership Board, Jewish Federation of Metropolitan Chicago, 1993–1997

Young Leadership Board, Jewish Community Federation of Cleveland, 1997–2000

MEDIA APPEARANCES

WOIO CBS 19News, “Travel scams to watch out for this holiday season: ‘A lot of people are naughty, not nice,’” Dec. 22, 2022

The International Comparative Legal Guide to Class & Group Actions 2023/2024 edition, “As Collective Actions Take Root in Europe, Some Pointers on What Not to Emulate from the US,” Nov. 1, 2022

WIFR (CBS): “Did you read the fine print? Know your rights as a consumer,” Aug. 1, 2022

WKYC 3 News: What's Next, “Deshaun Watson hearing aftermath, what might happen,” June 27, 2022

WKYC 3 News: Go at 6 am, “Deshaun Watson hearing aftermath, what might happen,” June 27, 2022

WKYC 3 News: Go at 5 am, “Deshaun Watson hearing aftermath, what might happen,” June 27, 2022

WKYC 3 News: Go at 4:30 am, “Deshaun Watson hearing aftermath, what might happen,” June 27, 2022

WKYC NBC3, “Deshaun Watson hearing aftermath, what might happen,” June 27, 2022

WIFR (CBS), “Did you read the fine print? Know your rights as a consumer,” Apr. 11, 2022

The Elliott Sheppard Show, “Did you read the fine print? Know your rights as a consumer,” Apr. 11, 2022

WAGT (NBC), “Did you read the fine print? Know your rights as a consumer,” Apr. 10, 2022

Top Class Actions, “TCA Explains: What Are Arbitration Agreements And How Do They Affect Class Actions,” Apr. 4, 2022

WSAZ NewsChannel 3 Midday, “Did you read the fine print? Know your rights as a consumer,” Feb. 23, 2022

WOIO CBS 19News, “Did you read the fine print? Know your rights as a consumer,” Feb. 22, 2022

Top Class Actions, “Michigan Parking Chalk Class Action Could Lead to Similar Lawsuits Across the US,” Feb. 16, 2022

Top Class Actions, “As Mask Mandates Return, So Do Lawsuits,” Feb. 4, 2022

Farm Progress, “JBS pays \$52.5M to partially settle beef antitrust litigation,” Feb. 2, 2022

WOIO CBS 19News, “Scams to watch out for this holiday season,” Dec. 17, 2021

Top Class Actions, Class Action Lawsuits Target Alleged Beef Price-Fixing Scheme, Dec. 8, 2021

Top Class Actions, “Meet Danny Karon, Your Lovable Lawyer,” Sept. 17, 2021

WKYC NBC3, “The constitutionality of President Biden’s compulsory vaccination decree,” Sept. 10, 2021

WOIO CBS 19News, “Court case from 1905 holds up Ohio state vaccine mandates today,” Aug. 25, 2021

WEWS News Channel 5, “Some businesses reinstate mask mandates as COVID cases rise,” August 3, 2021

WOSU-NPR, “All Sides with Ann Fishers,” Jul. 22, 2021

WOIO CBS 19News, “Know your rights: how condo owners can get action for safety problems,” July 2, 2021

Top Class Actions, “Supreme Court Ruling on NCAA Suggest Potential for Future Changes,” June 22, 2021

Top Class Actions, “10 Largest Class Action Settlements in American History,” June 9, 2021

WKYC NBC3, “George Clooney to produce docuseries on Ohio State sexual abuse scandal,” Feb. 22, 2021

WKYC NBC3, “COVID-Q9 vaccine: Your legal questions answered,” Dec. 15, 2020

WKYC NBC3, “Exclusive: OSU sex abuse survivors say ‘gender bias’ is stalling settlement talks,” Oct. 13, 2020

Law360, “6 Law Firms Vie To Head FirstEnergy Shareholder Suit,” Sept. 29, 2020

Top Class Actions, “Tyson Class Action Lawsuit Says Beef Prices are Inflated,” Sept. 17, 2020

Law360, “Investor Claims Ohio Utility Played Role In \$60M Bribery Plot,” Aug. 21, 2020

WKYC NBC3, “Evenflo accused of defective car seats,” August 5, 2020

Law360, OSU Says Sex Assault Claims Against Doctor Are Too Old, July 8, 2020

Fair Cattle Markets, Interview with Daniel Karon, Attorney representing Central Grocers, June 23, 2020

The Fence Post, “Grocers File Lawsuit Against Meatpackers for Violating the Sherman Act,” June 15, 2020

Tri-State Livestock News, “Lawsuit Number 3,” June 12, 2020

Beef Magazine, “Class action lawsuit filed against beef packers,” June 11, 2020

Feedstuffs, “Class action lawsuit filed against beef packers,” June 9, 2020

Bloomberg Law, “Cargill, JBS, Top Meatpackers Accused of Driving Up Prices,” June 8, 2020

WKYC NBC3, “What are Workers’ Rights During the Coronavirus Outbreak?” March 26, 2020

Law360, “OSU And Sex Abuse Accusers Ordered To Continue Deal Talks,” March 19, 2020

WEWS NewsChannel 5, “Corona Virus: How You Can Still Plan for Big Events,” March 14, 2020

Law360, OSU Reaches Settlement With Some Sex Abuse Accusers, May 6, 2020

Law360, OSU Not Handling Sex Abuse Talks In Good Faith, Judge Told, February 25, 2020

WOIO CBS 19News, “Myles Garrett in the News,” November 15, 2019

WOIO CBS 19News, “More Than 100 Former OSU Students Come Forward with Allegations of Sexual Misconduct by Team Doctor,” July 21, 2019

WOIO CBS 19News, “Ohio State Sex Abuse Interview,” May 20, 2019

WEWS NewsChannel 5, “Ohio State Sex Abuse Interview,” May 20, 2019

Fox News 8 Cleveland, “Cleveland Attorney Represents Alleged Victim, Fights for Justice in OSU Sexual Abuse Case,” May 18, 2019

Fox News 8 Cleveland—Live Facebook feed, “Cleveland Attorney Represents Alleged Victim, Fights for Justice in OSU Sexual Abuse Case,” May 18, 2019

Cleveland Jewish News, “OSU Investigation: Doctor Strauss Abused at Least 177 Students,” May 17, 2019

Columbus Jewish News, “OSU Investigation: Doctor Strauss Abused at Least 177 Students,” May 17, 2019

All Rise—the Ohio State University Moritz College of Law, Alumni Profile, Winter 2019

Cleveland.com, “State’s high court says customers must show damages in class action case,” Jan. 11, 2019

Law360, “New Deposition Rule Could Have Benefits but Lawyers Hate It,” Feb. 25, 2019

WKYC NBC3 Cleveland, “Cleveland Attorney Represents Alleged Victim, Fights for Justice in OSU Sexual Abuse Case,” July 18, 2018

The Lantern, “Ohio State Faces Second Class Action Lawsuit Pertaining to Doctor’s Sexual Abuse,” July 17, 2018

The Daily Record, Ex-Wrestlers Sue Ohio State, Say Officials Knew of Doctor’s Sexual Abuse,” July 17, 2018

The Columbus Dispatch, Ex-Wrestlers Sue Ohio State, Say Officials Knew of Doctor’s Sexual Abuse,” July 17, 2018

Side Bar: the Moritz Newsletter, Expose, October 30, 2017

Bloomberg BNA, “Posner: Class Action Rules, Constitution Overrated,” October 28, 2016

Cleveland Plain Dealer, “Ruling May Make Class-Action Suits Harder to Mount,” September 9, 2015

21WFMJ, Warren woman files \$5,000,000 suit against hospital operator over data breach, Mar. 6, 2015

Cleveland.com, State’s high court says customers must show damage in class action case, Sept. 5, 2015

Law360, “BASF, Others Face Price-Fixing Suit for Polyurethane Input,” July 9, 2013

Cleveland Plain Dealer, “Grove City Truck Firm is Latest to Sue Pilot Flying J,” June 1, 2013

Madison Record, “ABA—Panel Discusses Class Action Lawsuits and their Bad Reputation, August 6, 2012

Cleveland Plain Dealer, “Take Me Out to a Ballpark—Midday Makeup Game Draws Determined Crowd,” September 21, 2011

Lawyers and Settlements, Featured Case, March 22, 2010

ABA Journal, “A Step Up in Class,” May 1, 2008

Miami Herald, “Banana Battle Heads to Court,” September 2, 2005

National Law Journal, “Antitrust Dilemma Emerges in U.S. Courts,” September 19, 2005

RDS Business and Management Practices, “Banana Battle Heads to Court,” September 1, 2005

The Palm Beach Daily Business Review, Kimball on Real Estate, March 24, 2015

St. Paul Pioneer Press, “Assault on a System,” March 14, 2004

PODCASTS

Marketing Solutions for Local Businesses, Jan. 12, 2023

Non-Compliant with Jay Edelson, Oct. 17, 2022

Side Gig School with Sindy Warren, Sept. 22, 2022

Risk Settlements, Legal Wellness and Access to Justice with Your Lovable Lawyer, June 30, 2022

Joel Oster, Comedian of Law, June 21, 2022

The Mogabr Show, May 13, 2022

Your Lot & Parcel Podcast, May 12, 2022

The Kimberly Cloud Show, May 9, 2022

5 Minutes With, Buzz Media, Oct. 13, 2021

Health Yeah! With Monica Robins, The Legal Wellness Advice You Didn’t Know You Needed, Oct. 7, 2021

Ask the Attorney, Buzz Media, Sept. 8, 2021

Emerging Litigation Podcast, HB Litigation Conferences LLC, Sept. 2, 2021

Our Curious Amalgam, sponsored by the American Bar Association, Mar. 29, 2021

Common Questions, sponsored by the American Bar Association, August 10, 2021

HONORS AND AWARDS

Norvelle Scholarship for Academic Excellence, Indiana University, 1986

Ohio Super Lawyer, 2012–Present

Super Lawyer, Top 100 in Ohio, 2022–Present

Super Lawyer, Top 50 in Cleveland, 2022–Present

Top Attorneys in Cleveland & Columbus 2023 – *Cleveland Magazine*

Global Directory of Who's Who (Top Lawyer), 2015–2023

Chambers and Partners, USA Antitrust-Ohio, 2020–Present (“Daniel Karon is an experienced antitrust litigator who is well known for his deft handling of high-profile class action litigation. He is a thought leader in the class action space.”)

ABA Center for Professional Development Partner Appreciation Award Winner for Most Innovative Presentation, 2015

ABA Award for Outstanding Subcommittee Chair for the Class Actions & Derivative Suits Committee 2010–2011

Top Attorneys of North America, 2017–Present

Who's Who in America, 2021–2023

Best Lawyers in America, Mass Tort Litigation/Class Actions—Plaintiffs, 2018–Present

Martindale-Hubbell AV Preeminent® Peer-Review Rating (reflecting combination of very high general ethical standards and legal ability and measuring legal knowledge, analytical capabilities, judgment, communication ability, and legal experience), 2012–Present

AcademicKeys Who's Who in Law Higher Education, 2017–Present

US News Best Lawyers—Best Law Firms, 2019–Present

Best Lawyers Business Edition—The Litigation Issue 2019

Best Lawyers National Tier 3 in Mass Tort Litigation/Class Actions – Plaintiffs; Cleveland Tier 1 in Mass Tort Litigation/Class Actions - Plaintiffs

Best Consumer Law & Antitrust Law Firm 2019—Ohio Leading Legal Mind in Class Action Lawsuits (Ohio)

America's Top 100 High Stakes Litigators, 2020

America's Most Honored Lawyers, The American Registry, 2020

National Trial Lawyers—Top 100, 2022



Wright & Schulte, LLC

Wright and Schulte, LLC is an experienced Ohio law firm with offices in Cleveland, Dayton, and Vandalia, Ohio. Wright and Schulte, LLC attorneys are uniquely qualified to serve in a leadership role in this litigation because of extensive experience in railroad litigation, environmental contamination litigation, and class actions and Wright and Schulte, LLC attorneys have also served in various leadership roles in other class and mass actions, both in Ohio and in many other states.

Roger Denton, the lead attorney for Wright and Schulte, LLC on this litigation, has 40 years of experience litigating cases against all Class 1 railroads including Norfolk Southern. Roger has litigated more than a thousand cases against various railroads and more than two hundred cases against Norfolk Southern, including a successful defense of a plaintiff's verdict in the United States Supreme Court; *Norfolk Sothern v. Sorrell*, 549 U.S. 158 (2007), an unanimous decision in favor of the plaintiff. Roger's railroad litigation experience includes handling matters such as derailments, hotbox detectors, railcar inspections, train crew operations, dispatcher communications, general operating practices, as well as cases requiring in depth knowledge of FRA regulations and industry practices. Roger has obtained numerous million-dollar verdicts against various railroads trying cases in many different counties and states including in Cuyahoga County, Ohio.

Roger has extensive experience in environmental and water contamination litigation, and he represented a number of Ohio residents who suffered severe injury as a result of water contaminated by DuPont's pollution of the Ohio River from discharge from DuPont's Parkersburg, West Virginia plant. Roger was appointed to the Plaintiff's Steering Committee by Judge Edmund Sargus, of the Southern District of Ohio, and he served on the trial team for the bellwether cases. *DuPont De NeMours C-8 Liability Litigation*.

Roger has also served in numerous other leadership positions in mass tort cases. He was appointed by Judge David Katz (now deceased), of the Northern District of Ohio, as a member of the discovery committee in *In Re: Ortho Evra Products Liability Litigation*. He was appointed by Judge Dan Aaron Polster, of the Northern District of Ohio, to the Plaintiff's Steering Committee in *In re: Linear Gadolinium-Based Contrast Agents Products Liability*. Roger has also previously served as co-lead counsel in three separate pharmaceutical MDLs appointed by Judge David Herndon, of the Southern District of Illinois: (1) *In Re: Yasmin and Yaz (Drospirenone) Marketing, Sales Practices and Products Liability Litigation*, (2) *In Re: Pradaxa (Dabigatran Etexilate) Products Liability Litigation*, and (3) *In Re: Just For Men® Mass Tort Litigation*.

Roger was appointed to the Plaintiff's steering committee of the *In Re: Xarelto (Rivaroxaban) Products Liability Litigation* by Judge Eldon Fallon of the Eastern District of Louisiana, where he was also the leader of the various trial teams for seven different trials. Roger was also appointed lead counsel, lead trial counsel, and lead settlement counsel by Judge Rodney Sippel, of the Eastern District of Missouri,

in *In Re: NuvaRing Products Liability Litigation*. Roger has also served as a member of Plaintiff's Executive Committee of *In Re: Proton-Pump Inhibitor Products Liability Litigation*, appointed by Judge Claire Cecchi, of the District of New Jersey.

Richard Schulte, a founding member of Wright and Schulte, LLC, has more than 25 years of experience representing individuals in complex litigation, including leadership roles in various class actions and mass torts. Richard is a past president of Ohio Association for Justice. The following are a few examples of complex coordinated litigations in which Richard has litigated and held leadership roles.

DuPont De NeMours C-8 Liability Litigation MDL 2433 (Southern District of Ohio, Eastern Division, before Judge Edmund Sargus)

Richard Schulte was appointed to the leadership on the Plaintiff's Steering Committee and Wright & Schulte attorneys were involved in critical briefing and discovery issues concerning bellwether cases. Leadership ultimately reached a global resolution of the litigation for \$671 million dollars.

John Doe MC-1 v. The University of Michigan, the Regents of the University of Michigan (Eastern District of Michigan, before Judge Victoria A. Roberts)

Richard Schulte was appointed and currently serving as Co-Lead Counsel on behalf of victims of sexual abuse over a 40-year time period at the University of Michigan. Wright & Schulte has filed claims including state law constitutional claims and federal Title IX claims on behalf of survivors. Richard Schulte, as co-lead counsel, recently negotiated a \$490 million dollar settlement on behalf of the survivors.

Ohio State University Sexual Abuse Litigation (United States District Court for the Southern District of Ohio)

As lead negotiator, Richard Schulte and Wright & Schulte, LLC were able to negotiate the only three settlements with The Ohio State University to resolve claims of 185 survivors of sexual abuse for 46 million. A settlement program was announced after those two settlements mirroring the settlement structure that Richard Schulte negotiated with Ohio State. Richard Schulte also went on to negotiate two additional settlement rounds on behalf of OSU survivors.

In RE: AME Church Employee Retirement Fund Litigation (Western District of Tennessee, before Judge S. Thomas Anderson)

Richard Schulte was appointed to and currently serving on the Plaintiffs' Steering Committee for the AME Church nationwide class action, and he has responsibilities including decision making in the areas of experts, discovery, and motion practice. Wright & Schulte has an active role in discovery issues, motion practice, and expert selection.

Bettie Ann Smith v. Covidien LP, et al (Lead Case) (Commonwealth of Massachusetts – Superior Court, before Judge Helene Kazanjian)

Richard Schulte was appointed to and currently serving on the Plaintiff's Executive Committee and has responsibilities including decision making in the areas of discovery and motion practice. Wright & Schulte has an active role in discovery issues.

In Re: Ethicon Physiomesh Flexible Composite Hernia Mesh Products Litigation MDL

2782 (Northern District of Georgia, Atlanta Division, before Judge Richard W. Story)

Richard Schulte was appointed to and currently serving on the Plaintiff's Steering Committee and has contributed to various aspects of the litigation, and most significantly discovery issues. As a member of leadership, Richard Schulte participated in negotiations that resulted in nationwide global settlement on behalf of all plaintiffs participating in the litigation.

In Re: Atrium Medical Corp. C-Qur Mesh Litigation MDL 2753 (District of New Hampshire before Judge Landya McCafferty)

Richard Schulte was appointed to and currently serving on the Plaintiff's Steering Committee and has responsibilities including decision making in the areas of discovery and motion practice.

In Re: Just For Men Mass Tort Litigation (Southern District of Illinois, before Judge David R. Herndon)

Richard Schulte was appointed Co-Lead Counsel and successfully negotiated resolution of more than 8,000 plaintiffs injured by Just For Men hair dye. Corey J. Artim was appointed a member of Plaintiffs Negotiating/Settlement Counsel and the Expert Witness Committee. Various attorneys of the firm were also vital in discovery and motion practice. Richard Schulte was the first attorney to successfully take on the hair dye industry on a mass basis by creating the litigation, organizing, and leading the plaintiffs law firms and leadership, and especially negotiating a global resolution on behalf of more than 8000 Plaintiffs.

Imprelis Herbicide Marketing Sales Practices and Products Liability Litigation MDL 2284 (Eastern District of Pennsylvania, before Judge Gene Pratter)

Richard W. Schulte was appointed Lead Counsel and successfully negotiated multiple rounds of inventory settlements for Plaintiffs represented by law firms around the law country in a coordinated proceeding.

Skechers Toning Shoes Products Liability Litigation MDL 2308 (Western District of Kentucky before Judge Thomas B. Russell)

Richard Schulte was appointed to the Plaintiff's Steering Committee, and after the Co-Leads resolved their own inventory cases, Richard Schulte coordinated the remaining Plaintiffs' law firms and negotiated a global resolution for the remaining Plaintiffs 2196 in the MDL.

***Lovdal v. JP Morgan Chase Bank NA*, Hamilton County, Ohio, Court of Common Pleas, Case # A1101459**

Richard Schulte was appointed Co-Lead Counsel in a robo-signing class action concerning alleged fraudulent foreclosures. Settlement relief was obtained for more than 29,000 class members valued at more than 200 Million Dollars.

***Davis v. Retirement Plan of Phibro Animal Health Corporation and Subsidiaries and Affiliates et al.*, Case# 08-cv-779, Southern District of Illinois**

Richard Schulte was appointed Co-Lead Counsel.

***Banford v. Aldrich Chemical Company Inc.*, Case # 03 CV 8704**

Richard Schulte was appointed Co-Lead Counsel and Wright & Schulte successfully certified a class resolved on behalf of those evacuated after a nitric oxide explosion. Richard Schulte represented the interests of more than three thousand class members.

Attorney Biographies

Additional, Wright & Schulte attorneys have extensive experience in complex litigation who will also assist in this litigation.

Dennis Mulvihill: Dennis Mulvihill is the firm's lead trial attorney and has obtained multiple million- and billion-dollar verdicts. **Admitted to practice:** Ohio Supreme Court-1994 U.S. District Court for the Northern District of Ohio-1995; U.S. District Court for the Southern District of Ohio-2012; U.S. District Court for the Eastern District of Michigan-2020; United States Court of Appeals, Sixth Circuit-1998;

Michael L. Wright: Michael L. Wright's practice focuses on practice focuses on Catastrophic Injury, Wrongful Death, Medical Malpractice, Products Liability, Nursing Home Neglect, Police Brutality Claims, Civil Rights Litigation, Sexual Assault and Abuse, and Personal Injury Claims. Attorney Michael L. Wright is a member of the Multi-million Dollar Advocates Forum, one of the most prestigious groups of trial lawyers in the United States. **Admitted to practice:** State of Ohio, State of Florida, State of Georgia, and State of Alabama, the United States Patent and trademark Office, and the United States District Court for the Southern District of Ohio.

Stephen D. Behnke: Stephen D. Behnke has extensive experience and success in legal research and writing. He has co-authored two amicus briefs filed before the Ohio Supreme Court, as well as chairing a *Daubert* committee in a complex litigation. Stephen has written pleadings and presented oral arguments for the Ohio Supreme Court and various trial and appellate Courts throughout Ohio and California. He has also appeared and tried cases in various courts throughout Ohio. **Admitted to practice:** State of Ohio, State of California, United States Supreme Court, United States District Court for the Southern District of Ohio

Corey J. Artim: Corey J. Artim has more than ten years of experience managing and prosecuting large mass tort cases. Corey has held leadership roles including committee positions in multiple litigations. He is also responsible organizing global technology; creating and managing national marketing campaigns; implementing firmwide technology tools and processes for intake and client record collection; assist with negotiation and settlement discussions. **Admitted to practice:** State of Ohio, State of Arizona, State of Massachusetts, Southern District of Ohio, United States Court of Appeals, Sixth Circuit, and United States Court of Federal Claims.

Jacob A. Gebelle: Jacob A. Gebelle leads the management of Wright & Schulte's largest mass tort projects ranging from product liability to sexual abuse and he is responsible for management of various complex civil litigations from intake to settlement including trial preparation, settlement negotiation and settlement discussions; and Master Settlement Agreement drafting. **Admitted to practice:** State of Ohio 2015, United States District Court for the Southern District of Ohio, United States District Court for the Northern District of Ohio.

Kate Van Schaik: Kate Van Schaik manages various mass tort projects and focuses on the firm's research and writing including drafting and preparing minor's compromises and estate settlement approvals, and research and drafting settlement agreements and in motion practice including motions

to dismiss, motions for summary judgement, motions to compel, among others. **Admitted to practice:** State of Maryland 2014, District of Columbia 2016, United States District Court for the District of Maryland 2015.

Robert Gresham: Robert Gresham practices in the various areas including of Personal Injury, Police Brutality Claims, Civil Rights Litigation, and Medical Malpractice. Robert also counsels and advises professionals and businesses on how to resolve disputes or avoid litigation. **Admitted to practice:** State of Ohio, United States District Court for the Southern District of Ohio, and the Sixth Circuit Court of Appeals.

Kesha Q. Brooks: Kesha Q. Brooks practices in various areas including of Personal Injury, Police Brutality Claims, Civil Rights Litigation, and Medical Malpractice. **Admitted to practice:** State of Ohio, September 2016, United States District Court for the Southern District of Ohio.

Davis Schwartz: Davis Schwartz is the newest addition to the Wright & Schulte team. Davis is responsible for managing mass tort projects, drafting, and filing complaints, and answering extensive discovery responses. **Admitted to practice:** State of Illinois 2021.

EXHIBIT A

NEAL E. SHAPERO

SHAPERO | ROLOFF CO., L.P.A.
1111 Superior Avenue East, Suite 1310
Cleveland, OH 44114
(216) 781-1700 or (800) 321-9199
FAX: (216) 781-1972
e-mail: nshapero@shaperoroloff.com

PERSONAL:

Born – Lorain, Ohio on December 22, 1958

PROFESSIONAL:

Admitted to New Jersey Bar, 1985 (inactive)

Admitted to Ohio Bar, 1984

EDUCATION:

University of Akron, School of Law

Juris Doctor, 1984

Kent State University, Kent, Ohio

Bachelor of Science, 1981

EMPLOYMENT:

Shapero & Roloff Co., L.P.A.

- January, 2002 to Present
- Shareholder and Director
- Practice areas include Railroad Law, F.E.L.A., Medical Malpractice, Nursing Home Abuse & Neglect, Products Liability, Personal Injury, Civil Rights and Union Labor Law.

Chattman, Gaines & Stern, Formerly Gaines & Stern

- August, 1987 to December, 2001
- Shareholder and Director, 1991 to 2001
- Practice areas included Railroad Law, F.E.L.A., Medical Malpractice, Nursing Home Abuse & Neglect, Products Liability, Personal Injury, Civil Rights and Union Labor Law.

Assistant Director of Law, City of Akron, Department of Law

- January, 1986 to August, 1987
- Handled litigation in the areas of Personal Injury, Federal Civil Rights in State and Federal Courts, Wrongful Death, Malicious Prosecution and General Civil. Served as advisor to various City officials regarding legal matters.

Assistant Prosecutor, City of Akron, Department of Law

- January, 1985 to January, 1986
- Prosecuted felony cases through preliminary hearing stage and handled all phases of misdemeanor prosecution from complaint authorization through jury trial. Prepared and argued appeals.

CLE LECTURER (partial list):

- Advanced Personal Injury - Mastering Your Practice, 2009;
- Surviving A Civil Trial: From Voir Dire To Jury Instructions, 2009;
- Advanced Personal Injury - Mastering Your Practice, 2009;
- Handling Your First Nursing Home Malpractice Case, 2009;
- Preparing and Trying the Bodily Injury Case, 2009
- Advanced Personal Injury: Mastering Your Practice, 2008
- Pre-Impact Terror: Maximizing Non-Economic Damages, 2008
- Best Practices in Products Liability, 2007
- Evidence and Expert Testimony Best Practices: Supporting Your Case, 2007
- Plaintiff's Personal Injury: Practice Tips and Application, 2007
- Pretrial Skills: Thinking On Your Feet, 2006
- Nursing Home Malpractice, Evaluating and Addressing Accountability, 2006
- How To Get Evidence and Expert Testimony Admitted Into Court, 2006
- Nursing Home Negligence, Asserting Claims, 2005
- Nursing Home Malpractice in Ohio: Successful Case Management From Investigation to Trial, 2005
- Survival Claims: Can You Get Punitive Damages Without Conscious Pain & Suffering, Ohio Academy of Trial Lawyers Annual Convention, 2005
- Orthopedic Issues In Injury Cases, 2004
- Taking Your First Deposition, 2004
- Nursing Home Negligence, 2001 & 2003
- How To Litigate Your First Civil Trial In Ohio, 2000 & 2003
- Cross-Examination of the Defense Medical Examiner, 2000
- Trying The Soft Tissue Injury Case, 1998
- Premises Liability, 1997-1998
- FDA and MDA Requirements for Medical Device Litigation, 1990
- Fundamentals of Direct Examinations, 1989
- Municipal Liability, 1989

PROFESSIONAL ORGANIZATIONS:

- Million Dollar Advocates Forum
- Ohio Super Lawyers
- Martindale-Hubbell AV Rated
- Academy of Rail Labor Attorneys
- The American Association for Justice
- The Ohio Association for Justice
- Cleveland Academy of Trial Attorneys
- Ohio, Cleveland Metro and Lorain Bar Associations

COMMUNITY INVOLVEMENT:

- Anti-Defamation League – Board Chair of the Ohio, Kentucky and Allegheny Region (2008-2011)
- Anti-Defamation League – National Commission (2008 – present)
- Ohio Supreme Court – Lawyer to Lawyer Mentoring Program (2009 – present)
- City of Shaker Heights, Human Relations Commission – Board Member (1999-2003)
- Congregation Shaarey Tikvah – Board Member (2000-2003)

Attorney Brian Kopp, one of the founders of Betras, Kopp & Markota, LLC, serves as managing partner of the firm's Complex Litigation and Sports Law Practice Groups. A native of Youngstown, Ohio, Atty. Kopp is now based in the firm's Tampa, Florida office.

A Magnum Cum Laude graduate of Bethany University, Brian holds a BS Degree in Mathematics. He earned his Juris Doctorate at Capital University in Columbus, Ohio and participated in Ohio University's honors program in Sports Administration. Upon graduating from Capital, Brian was offered and accepted a clerkship in the office of U.S. District Court Judge Peter Economus.

Following his clerkship, he began working as an associate attorney in the office of the law firm that would eventually become Betras, Kopp & Markota. During his first month of practice, he served as lead counsel and won a case against Allstate insurance in Federal Court. In 1999, at the age of 29, Attorney Kopp won his first wrongful death verdict in the case Katherine Biles v. Warren General Hospital.

From 1999-2009 Attorney Kopp amassed an impressive record of success in a number of legally significant cases including United States vs. Russell Saadey, Jr., Mays vs Allstate, The Estate of Daniel Aldrich vs. American Manufacturers, The Estate of Darlene Ross vs. St. Elizabeth Hospital, The Estate of Victoria Rendano vs. St. Elizabeth Hospital, and Randy Graham vs. Werner Enterprises. A number of these cases resolved disputed principles of law within their respective jurisdictions. The monetary awards obtained in Ross, Rendano, and Graham rank among the largest in cases of their kind in Northeast Ohio. Over the past 18 months, Atty. Kopp has secured settlements exceeding \$16,000,000 for BKH clients.

On December 2, 2022, Attorney Kopp obtained a \$2 million dollar verdict in the Mahoning County Court of Common Pleas (Youngstown, Ohio). The Defendants in the matter had denied any and all negligence. Attorney Kopp's team had invested countless hours and significant resources into the prosecution of the case. In the end, the firm was extremely happy that the family obtained justice after a long fight.

Along with his work in the personal injury field, Attorney Kopp has successfully represented various business entities in cases brought by the United States Justice Department and State Attorneys General.

Brian also gained extensive sports law experience while working as an executive officer and Authorized House Counsel for DeBartolo Sports from 2007 until 2012. During his time at the company, which was founded by former San Francisco owner Edward DeBartolo, Jr. in 2005, Brian handled the sale of various divisions of the company and aided in the acquisition of entities that are now the foundation of DeBartolo Sports and Events. Brian continues to provide advice and counsel to Mr. DeBartolo who has been a friend and respected mentor for many years. Today, his sports law work is focused on negotiating contracts for college and professional football coaches.

As managing partner of BKM's Complex Litigation Practice Group he is responsible for the preparation and presentation at trial of the firm's most challenging and complex cases as well as related appellate work. He has argued before the United States Court of Appeals for the Sixth Circuit, Ohio's Seventh and Eleventh District Courts of Appeals and has been admitted pro hoc vice for litigation purposes in Michigan, Pennsylvania, New Jersey, and California.

Attorney Kopp has been the recipient of numerous honors and awards. In 2000 he was named Trial Lawyer of the Year for Mahoning and Trumbull counties in Ohio. In 2004 his work on Graham vs. Werner was the subject of a feature story in *Lawyers Weekly* and he was also listed as one of America's Top 100 Lawyers by the American Trial Lawyers Association.

Attorney Kopp is a member of the American Bar Association, the Florida Bar Association, the Ohio Bar Association, and the Ohio Academy of Trial Lawyers. He has also been selected on two occasions to serve on the Merit Selection Panel for United States magistrate judges for the Northern District of Ohio.

Attorney Kopp, his spouse Lori and their seven daughters Julia, Ally, Olivia, Emma, Ava, Audrey and Amelia reside in the Tampa area.



**Herzfeld
Suetholz
Gastel
Leniski
and Wall
PLLC**

NASHVILLE

The Freedom Center
223 Rosa L. Parks Ave.
Suite 300
Nashville, TN 37203
Tel: 615-800-6225
Fax: 615-994-8625

LOUISVILLE

Central Park
515 Park Avenue
Louisville, KY 40208
Tel: 502-636-4333
Fax: 502-636-4342

CINCINNATI

US Bank Building
425 Walnut Street
Suite 2315
Cincinnati, OH 45202
Tel: 513-381-2224
Fax: 615-994-8625

The attorneys at Herzfeld, Suetholz, Gastel, Leniski, and Wall PLLC have decades of experience helping provide legal representation to individuals and entities across the United States. With twenty-three (23) attorneys and staff from three offices in Nashville, Tennessee, Louisville, Kentucky, and Cincinnati, Ohio, the Firm services clients with a wide range of legal needs, from complex civil litigation involving class actions, shareholder derivative suits, and securities, to vindicating the rights of employees and labor union members, fighting civil rights violations, advocating for victims of abuse and corporate malfeasance, and advising public utilities. The Firm's mission is to guide our clients through life's most difficult times. We are a partnership of smart, trustworthy, and caring lawyers who are committed to providing the best possible legal services to our clients.

In addition to being experienced trial lawyers and transactional counsel, the Firm's attorneys are active members in their communities, and have had their accomplishments recognized by local bar associations and regional and national legal organizations. In 2022, five of the Firm's attorneys were recognized for their exceptional work as members of the team which litigated on behalf of Tennessee cities and counties and one child born drug dependent suffering from the effects of the opioids epidemic by receiving the 2022 Outstanding Trial Lawyer of the Year Award from the Tennessee Trial Lawyers Association.

Statement of Practice:

General Litigation Practice in State, Federal and Appellate Courts; Class Actions and Complex Litigation; Mass Tort; Antitrust Law; Securities Law; Shareholder Derivative Law; Wage & Hour Law; Consumer Protection; Labor and Employment Law; ERISA and Pension Law; Commercial Litigation; Utility Law; Municipal Law; Personal Injury; Workers' Compensation; and Social Security Claims.

Members and Attorneys:

Tricia Herzfeld, (Founding Member), admitted to the Tennessee Bar (2007), Florida Bar (2001), West Virginia Bar (2005), U.S. District Court for the Middle District of Tennessee (2009), U.S. District Court for the Eastern District of Tennessee (2008), U.S. District Court for the Western District of Tennessee (2010), U.S. District Court for the Southern District of West Virginia (2005), U.S. District Court for the Northern District of Florida (2019), U.S. District Court for the Southern District of Florida (2022), U.S. District Court for the Eastern District of Michigan (2022), U.S. Court of Appeals Sixth Circuit (2007), U.S. District Court Fifth Circuit (2013), and U.S. Immigration Courts (2015). **Education:** George Washington University (B.A. 1997); George Washington University Law School (2001). **Member:** Super Lawyers (2012-2016), Davidson County Election Commission, (2012-present). **Practice Areas:** Civil Litigation, Class Action and Complex Litigation, Mass Tort, Personal Injury, and Civil Rights.

David O'Brien Sueholz, (Founding Member), admitted to the Kentucky Bar (2004), Indiana Bar (2005), U.S. District Court for the Eastern District of Kentucky (2005), U.S. District Court for the Western District of Kentucky (2004), U.S. District Court for the Southern District of Indiana (2005), U.S. District Court for the Eastern District of Michigan (2021), U.S. Court of Appeals Sixth Circuit (2004), U.S. Court of Appeals for the Federal Circuit (2008), and Supreme Court of the United States of America (2010). **Education:** Villanova University (B.A. 2000); Notre Dame Law School (2003). **Experience:** General Counsel Kentucky Labor Cabinet 2009-2011; *Thompson v. North American Stainless, L.P.*, 562 U.S. 170 (2011) (expanded Title VII protection nationwide). **Practice Areas:** Union-side Labor Law.

Benjamin A. Gastel, (Founding Member), admitted to Georgia Bar (2007), Georgia Court of Appeals (2008), U.S. District Court for the Northern District of Georgia (2008), Georgia Supreme Court (2010), Tennessee Bar (2010), Tennessee Supreme Court (2010), U.S. District Court for the Middle District of Tennessee (2011), U.S. District Court for the Eastern District of Tennessee (2012), U.S. District Court for the Western District of Tennessee (2012), U.S. District Court for the Central District of Illinois (2020), U.S. District Court for the Northern District of Illinois (2022), U.S. Court of Appeals First Circuit (2014), and U.S. Court of Appeals Sixth Circuit (2012). **Education:** University of Dayton (B.S., 2004), Vanderbilt School of Law (J.D., 2007). **Member:** Nashville, Tennessee, Georgia, and American Bar Associations. **Practice Areas:** Class Actions and Complex Litigation, Civil Litigation, Consumer Securities and Fraud, Antitrust Litigation, and Labor & Employment.

Joe P. Leniski, Jr., (Founding Member), admitted to Tennessee Bar (2003), Arkansas (2022), U.S. District Court for the Middle District of Tennessee (2004), U.S. District Court

for the Eastern District of Tennessee (2005), U.S. District Court for the Western District of Tennessee (2008), U.S. District Court for the Eastern District of Arkansas (2016), U.S. District Court for the Western District of Arkansas (2016), U.S. District Court for the Northern District of Oklahoma (2017), U.S. District Court for the Eastern District of Wisconsin (2019), U.S. District Court for the Eastern District of Michigan (2022), U.S. Court of Appeals First Circuit (2014), U.S. Court of Appeals Third Circuit (2015), U.S. Court of Appeals Sixth Circuit (2005), and U.S. Court of Appeals Eighth Circuit (2011). **Education:** University of Notre Dame (B.A., cum laude, 2000), Vanderbilt University Law School (J.D., 2003). Vanderbilt Bar Association, President; Trial Advocacy Association, member; and Vanderbilt Juvenile Practice Clinic. **Member:** Nashville and Tennessee Bar Associations, American Bar Association, American Association of Justice, Public Justice, Harry Phillips American Inn of Court, Super Lawyers (2012-2019), Class Action Trial Lawyers Top 25, Mass Tort Trial Lawyers Top 25, The National Trial Lawyers Top 100 Civil Plaintiff, Union Lawyers Alliance, and Nashville Bar Fellows. **Experience:** Branstetter, Stranch & Jennings PLLC (2003-2023). **Practice Areas:** Civil Litigation, Class Actions and Complex Litigation, Antitrust Law, Shareholder Derivative Law, Union-side Labor Law, Employment (Employee-side), Consumer Protection, and ERISA.

Michael J. Wall, (Founding Member) born Cincinnati, Ohio; admitted to Tennessee Bar (2005), U.S. District Court for the Middle District of Tennessee (2006), U.S. District Court for the Western District of Tennessee (2008), U.S. District Court for the Eastern District of Tennessee (2009), U.S. Court of Appeals Sixth Circuit (2006), U.S. Court of Appeals Eleventh Circuit (2010), U.S. Court of Appeals Eighth Circuit (2011), and U.S. Supreme Court (2009). **Education:** Vanderbilt University (B.A., 2002); Vanderbilt University Law School (J.D., 2005). **Member:** Nashville, Tennessee, and American Bar Associations. **Practice Areas:** Civil Litigation, Labor & Employment, ERISA, and Class Actions and Complex Litigation.

Anthony A. Orlandi, (Member), admitted to Tennessee Bar (2015), Massachusetts Bar (2006), Kentucky Bar (2022), U.S. District Court for the District of Massachusetts, U.S. District Courts for the Eastern District of Tennessee, U.S. District Court for the Middle District of Tennessee, U.S. District Court for the Western District of Tennessee, U.S. District Court for the Eastern District of Arkansas, U.S. District Court for the Western District of Arkansas, U.S. District Court for the Eastern District of Michigan, U.S. Court of Appeals Sixth Circuit, U.S. Court of Appeals Eighth Circuit. **Education:** Brown University, B.A., Public Policy & American Institutions, Phi Beta Kappa, University of Virginia School of Law (J.D.), Earle K. Shawe Labor Relations Award. **Member:** Tennessee and Nashville Bar Associations, Phi Beta Kappa National Chapter, Rhode Island Chapter Board Member Law Association for Women, Nashville Chapter Board Member Hearing Examiner, Tennessee Board of Professional Responsibility, Nashville Bar Association Social Committee, Harry Phillips American Inn of Court, Barrister (2016-2020), Tennessee Bar Association Leadership Law Class of 2017, and Nashville Bar Foundation 2015 Young Leadership Forum. **Experience:** Law Clerk, Hon. Aleta A. Trauger, U.S. District Court for the Middle District of Tenn. **Practice Areas:** Class Action Litigation, Complex Litigation, Constitutional

Rights Litigation, Employment Law, General Civil Litigation, Telephone Consumer Protection Act Litigation.

Edward Gleason, (Member), admitted to Pennsylvania Bar (1989), Washington, Washington, D.C. Bar (1991), U.S. Courts of Appeal for the Second, Third, Seventh, Ninth, D.C. Circuits, United States Supreme Court (1998). **Education:** Fordham University *Phi Beta Kappa* (B.A. 1986); Dickinson School of Law *with distinction*, (1989). **Experience:** Adjunct Professor Georgetown University Law Center for fourteen years, Pro-Bono International Labor Rights, General Counsel of Marine Engineers Beneficial Association (1996-99, 2002-2007), Counsel for International Brotherhood of Teamsters, Carhaul and Airline Divisions (2007-2013), Chief Counsel to Teamsters Local 1224 (2013-present). **Practice Areas:** Union-side Labor Law, ERISA, Labor and Employment Related Civil Litigation, and Labor and Employment Related Administrative Proceedings.

Pamela Newport, (Member), admitted to the Ohio Bar (2005), U.S. District Court for the Southern District of Ohio, U.S. District Court for the Northern District of Ohio. **Education:** University of Cincinnati (B.A., 2001), University of Cincinnati (M.A., 2004), and University of Cincinnati (J.D. 2005). **Member:** AFL-CIO Lawyers Coordinating Committee, NAACP, Adjunct Professor, University of Cincinnati College of Law (2009-2011), Cincinnati Interfaith Workers Center, Board Member (2006-2008). **Experience:** Kircher, Suetholz and Associates (2017-2018), General Counsel, UFCW Local 75 (2008-2016), Manley Burke, LPA (2005-2008). **Practice Areas:** Union-side Labor and Employment.

Daniel Hull, (Member), admitted to Tennessee Bar (2005), U.S. District Court for the Middle District of Tennessee (2006), U.S. District Court for the Eastern District of Tennessee (2011), U.S. District Court for the Western District of Tennessee (2019), U.S. District Court for the Eastern District of Michigan (2022), U.S. District Court for the Western District of Kentucky (*pro hac vice*), U.S. District Court for the District of Montana (*pro hac vice*). **Education:** Carson-Newman University (B.A., 1999), University of Tennessee (M.A., 2001), and University of Tennessee College of Law (J.D., 2005). **Member:** Tennessee Trial Lawyers Association. **Practice Areas:** Complex Civil Litigation, Class Action, including Mass Tort Litigation, Construction Law, Employment Law, Public Utility and Eminent Domain.

Alyson Beridon, (Member), admitted to the Ohio Bar (2011), Kentucky Bar (2017), Tennessee Bar (2022), U.S. District Court for the Southern District of Ohio (2013), U.S. District Court for the Northern District of Ohio (2019) U.S. District Court for the Western District of Kentucky (2019), U.S. District Court for the Eastern District of Kentucky (2018), U.S. District Court for the Middle District of Tennessee (2022), U.S. District Court for the Western District of Tennessee (2022), and U.S. Court of Appeals Sixth Circuit (2020). **Education:** Salmon P. Chase College of Law at Northern Kentucky University. **Member:** Cincinnati, Kentucky, Ohio, and Tennessee and American Bar Associations, AFL-CIO Union Lawyers Alliance. **Practice Areas:** Class Actions and Complex Litigation, Civil Litigation, Consumer Fraud, and Labor & Employment.

Megan Killion, (Senior Counsel), admitted to Tennessee Bar (2008). **Education:** Belmont University (B.S., 2005); Vanderbilt University School of Law (J.D., 2008). **Experience:** Metropolitan Nashville Department of Law (internship), Branstetter, Stranch and Jennings, PLLC. **Practice Areas:** Antitrust, Class Actions and Complex Litigation, and Personal Injury.

Clement L. Tsao, (Senior Associate), admitted to the Ohio Bar (2013), admitted to the Kentucky Bar (2014), U.S. District Court for the Southern District of Ohio, U.S. District Court for the Northern District of Ohio, U.S. District Court for the Western District of Kentucky, U.S. District Court for the Eastern District of Kentucky, U.S. District Court for the Eastern District of Michigan, U.S. Court of Federal Claims, U.S. Federal Circuit Court of Appeals, U.S. Court of Appeals Sixth Circuit. **Education:** Brown University (A.B., 2003) and University of Cincinnati College of Law (J.D.. 2012). **Member:** American Bar Association - Labor and Employment Section, AFL-CIO Union Lawyers Alliance (Board Member, 2016-2018). **Experience:** Branstetter, Stranch & Jennings, PLLC (Associate, 2019-2023), Cook & Logothetis, LLC (Associate, 2013-2019). **Practice Areas:** Union-side Labor and Employment.

Peter Jannace, (Associate), admitted to Kentucky Bar (2014), U.S. District Court for the Western District of Kentucky (2014), U.S. Court of Appeals Sixth Circuit (2019). **Education:** University of Louisville (B.S., 2010) and Hofstra University School of Law (J.D., 2013). **Experience:** Gordon Mize & Jannace LLP (2014-2020). **Practice Areas:** Union-side Labor and Employment, Administrative Law, Appellate Advocacy, Civil Rights, Class Actions and Complex Litigation, and Constitutional Law.

Rachel L. Rekowski, (Associate), admitted to Ohio Bar (2022). **Education:** Xavier University, Political Science (B.A., 2009) and University of Cincinnati College of Law (J.D. 2022). **Member:** Ohio Bar Association, Union Lawyers Alliance, and American Bar Association. **Practice Areas:** Union-side Labor law and Employment law.

Gary Eby (Of Counsel), admitted to Ohio Bar (1976), Kentucky Bar (1992) U.S. District Court for the Southern District of Ohio (1976), U.S. Court of Appeals Sixth Circuit (1977), U.S. District Court for the Eastern District of Kentucky (1982), U.S. Court of Appeals Fourth Circuit (1984), District of Columbia Court of Appeals (1990), U.S. District Court for the Western District of Michigan (2010). **Education:** University of Cincinnati College of Law, Juris Doctor Degree (1976), University of Cincinnati, M.A. in Industrial Relations (1984), University of Cincinnati, B.A., (1973). **Practice Areas:** Labor and Employment and Employee Benefits.

Noteworthy Cases:

Attorneys with **Herzfeld, Suetholz, Gastel, Leniski and Wall PLLC** have served either as lead counsel or as an plaintiffs' executive committee member in a substantial number of precedent setting labor, class actions, shareholder derivative, securities, and other complex cases both in state and federal courts throughout the nation. The firm's efforts have produced significant monetary recovery and/or benefits for plaintiffs from many jurisdictions. While the firm has also defended numerous such actions, the following is a list of notable complex litigation cases that the firm is currently prosecuting, or has prosecuted to a successful conclusion:

MASS TORT

- Staubus et al., v. Endo Pharmaceuticals, Inc., et al., C-41916 (Circuit Court for Sullivan County at Kingsport, Tennessee) (J. Moody). Involved claims on behalf of twenty-seven cities and counties and one child born drug-dependent in upper Northeast Tennessee against numerous prescription drug manufacturers and doctors under the Tennessee Drug Dealer Liability Act due to their participating in an illegal drug market for opioids. Two defendants, Purdue Pharma and Mallinckrodt, declared bankruptcy during the litigation. Plaintiffs reached a settlement with doctor defendants, and the remaining manufacturing defendants, Endo Pharmaceuticals, Inc., and Endo Health Solutions, Inc., settled the plaintiffs' claims on the eve of trial for \$35 million, representing the largest single recovery against these manufacturer defendants in any opioid-related litigation in the country to that point.
- In re: New England Compounding Pharmacy Product Liability Action, 1:13-md-02419 (D. Mass) (J. Zobel). As members of the Plaintiffs' Steering Committee and lead Tennessee Plaintiffs' Counsel, the Firm's attorneys represented hundreds of individuals injured as a result of exposure to tainted pharmaceuticals manufactured at New England Compounding Pharmacy in Framingham, Massachusetts. This litigation stems from the 2012 nationwide outbreak of fungal meningitis that, according to the Center for Disease Control, injured over 750 people nationwide and led to over 60 deaths. Over 100 Tennesseans were injured as a result of the catastrophe and 17 Tennesseans lost their lives. Following NECC's bankruptcy, settlement of claims against the bankrupt estate resulted in the creation of a \$210 million tort trust. The litigation then turned to litigating the remaining claims against the doctors, clinics, and other healthcare providers that exposed their patients to tainted pharmaceuticals from NECC. The Court determined the first bellwether trials were to be against Tennessee-based defendants. All of the Tennessee cases were settled just prior to the first bellwether trial.

CLASS ACTIONS

- In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation, MDL No. 2672 CRB (N.D. Cal.) (J. Breyer). Attorneys served on the Plaintiffs’ Steering Committee in a coordinated action consisting of nationwide-cases of consumer and car dealerships alleging that Volkswagen AG and Volkswagen Group of America, and other defendants illegally installed so-called “defeat devices” in their vehicles which allowed the cars to pass emissions testing but enabled them to emit nearly forty-times the allowable pollution during normal driving conditions. In October 2016, the court granted final approval to a settlement fund worth over \$10 billion to consumers with 2.0 liter diesel engines, and in May 2017, the court granted final approval to a \$1.2 billion settlement for consumers with 3.0 liter diesel engines, and a \$357 million settlement with co-defendant Bosch.
- M.S. Wholesale v. Westfax et al., 58CV-15-442 (Circuit Court of Pope County, Arkansas) (J. Sutterfield). Attorneys served as co-lead counsel on behalf of individuals and entities in a nationwide class action under the Telephone Consumer Protection Act (TCPA) involving the sending of illegal junk facsimiles. The Court granted final approval to a class settlement worth \$5.45 million.
- Duling v. Mid-American Credit Union, 2021-CV-001679-OT (District Court of Sedgwick Co., Kansas) (J. Mitchell). Attorneys helped defeat a motion to compel arbitration at the trial court level and on appeal (see 521 P.3d 1145 (Kan. Ct. App. 2022)), in putative consumer class action against a large Midwest credit union for assessing illegal overdraft fees.
- Walkingstick v. Simmons Bank, 6:19-cv-3184 (W.D. Mo.) (J. Ketchmark). Attorneys successfully argued for final approval of a \$2.5 million class action settlement against Simmons Bank to refund challenged overdraft fees.
- Howell v. Eastman Credit Union, Master Case No. C42517 (Sullivan Cnty. Tenn. Cir. Ct.). Attorneys assisted in briefing and obtaining approval of \$3.25 million settlement for class of current and former credit union members assessed challenged overdraft and insufficient funds fees.
- Horton v. Molina Healthcare, Inc., 4:17-CV-0266-CVE-JFJ (N.D. Okla.) (J. Eagan). Attorneys served as co-lead counsel on behalf of individuals and entities in this national class action under the TCPA regarding the sending of illegal junk facsimiles. Court granted final approval to a class settlement worth \$3.5 million.
- Davis Neurology, P.A. v. Dental Equities LLC, d/b/a Peer United et al., Case No. 4:16-cv-00371-BSM (E.D. Ark.) (J. Miller). Attorneys acted as lead counsel in this nationwide class action brought under the TCPA regarding the sending of illegal junk facsimiles to individuals and business entities. Court finally approved a \$1.525 million class-wide settlement.

- Irika Skeete et al. v. RePublic Schools Nashville, No. 3:16-cv-0043 (M.D. Tenn.) (J. Crenshaw). Attorneys represented as appointed class counsel a certified class of individuals having claims under the TCPA who received unsolicited spam texts to their cellular telephones. The Court approved a \$2.2 million settlement, resulting in claimants receiving over one-thousand dollars each in what is believed to be amongst the highest per-claimant TCPA recoveries.
- Elrod, et al. v. NoTax4 Nashville, et al., No. 20-cv-617, 2021 WL 1316703 (M.D. Tenn.). Attorneys and partnering firm obtained class certification for recipients of unlawful prerecord robocalls and final approval of a class settlement of over \$1 million.
- In re: Reciprocal of America (ROA) Sales Practices Litigation, No. 03-CV-2859 (W.D. Tenn.) (J. Breen). Attorneys represented as appointed class counsel persons and entities which purchased or were insured, or made a claim on or received payment under a policy issued by Doctors Insurance Reciprocal and/or The Reciprocal Alliance, who sued for unpaid insurance claims and costs associated with purchasing replacement insurance. A class settlement was reached valued at \$15 million.

ERISA AND RELATED CASES (401K, ESOP, TRUST LAW)

- In re Nortel Networks Corp. “ERISA” Litigation, No. 3:03-MD-1537 (M.D. Tenn.) (Nixon). Attorneys served as co-lead counsel in a 401k/ESOP class action suit brought on behalf of pension plan participants against fiduciaries of Nortel Network Corp. for violation of duties owed under ERISA. The court approved a settlement that provided a minimum recovery of \$21.5 Million plus access to additional monies held by others.
- In re Xcel Energy, Inc. ERISA Litigation, Civ. 02-2677 (D. Minn.) (Doty). Attorneys served as co-lead counsel in a 401k/ESOP class action suit brought on behalf of the pension plan against fiduciaries of Providian Financial Corp. for violation of duties owed under ERISA. Settlement reached that provided an \$8.6 million cash payment to the Plan for participants, lifted stock restrictions in the Plan with a value between \$38 million and \$94 million, and allowed the Plan to recover in parallel securities action.

ANTITRUST CASES

- Sherwood et al. v. Microsoft Corporation, No. 99-C-3562 (Davidson Circuit, Tennessee) (Judge Kurtz). Attorneys served as lead counsel in a consumer and indirect purchaser Tennessee class action against Microsoft Corporation alleging violation of the Tennessee Consumer Protection Act and the Tennessee Trades Act. A settlement was reached that was valued at \$64 million.
- In re: Wellbutrin XL Antitrust Litigation, No. 08-2433 (E.D. Penn.) (Judge McLaughlin). Mr. Leniski served as Co-Lead counsel in an antitrust class action against

pharmaceutical companies GlaxoSmithkline and Biovail on behalf of third-party payors alleging that defendants violated Tennessee, California, Florida, Wisconsin, and Nevada laws by colluding to illegally suppress a cheaper generic form of the blockbuster drug Wellbutrin XL from reaching the market. Through the efforts of the Firm and other co-lead counsel, plaintiffs were able to achieve certification of a class of indirect purchasers. Biovail reached a settlement and the remaining claims were resolved in GSK's favor.

- In re: Prograf Antitrust Litigation, No. 11621 (D. Mass) (J. Zobel). Serving in the role of Co-Lead Counsel, the Firm's attorneys represented a putative class of indirect purchaser plaintiffs in a nationwide antitrust action against Astellas Pharma, Inc., alleging that defendant illegally delayed entry of generic Prograf into the marketplace by filing a sham Citizen Petition with the Food and Drug Administration. Achieved partial class certification and withheld motions for summary judgment. The Court granted final approval in November 2016 to a class-wide settlement award of \$13.25 million.
- In re: Skelaxin (Metaxalone) Antitrust Litigation, No. 1:12-cv-194 (E.D. Tenn.) (J. Collier). Attorneys were appointed Lead Counsel in an antitrust class action on behalf of end-payors regarding monopoly practices which prevented the sale of generic Skelaxin, a muscle-relaxant prescription drug. The case against defendant Mutual Pharmaceuticals, Inc. was settled on a class basis for a sum total of \$9 million, and has been finally approved. The lawsuit against defendant King Pharmaceuticals, Inc. was settled on a non-class basis on behalf of the named plaintiffs.
- In re: Loestrin 24 FE Antitrust Litigation, No. 1:13-md-2472-S-PAS (D.R.I.) (J. Smith). Attorneys served on the Executive Committee of purchasers claiming that Warner Chilcott PLC signed a series of anti-competitive deals with Watson Pharmaceuticals Inc. and Lupin Pharmaceuticals Inc. that settled litigation over Loestrin and another oral contraceptive with a variety of early entry dates and exclusive sales rights. Though initially dismissed by the district court, the First Circuit revived the case in February 2016. The district court rejected the drugmakers' renewed dismissal efforts in August 2017. Case was eventually settled for \$63.5 million for a certified class of third-party payors.
- In re: Effexor Antitrust Litigation, No. 3:11-cv-5661 (D.N.J.) (J. Pisano). Attorneys serve on the Executive Committee overseeing this end payor antitrust class action against defendants Wyeth Pharmaceuticals, manufacturer of antidepressant medication Effexor XR, and Teva Pharmaceuticals. This lawsuit alleges Defendant Wyeth unlawfully procured the patents underlying Effexor XR, filed sham litigation against generic competitors, and then entered into anti-competitive settlement agreement with Teva in order to delay the arrival of generic forms of Effexor XR, causing plaintiffs to pay supracompetitive prices for Effexor XR, when they could have paid for far cheaper generics. The case is currently in the discovery phase.

SECURITIES AND SHAREHOLDER DERIVATIVE CASES

- In re: King Pharmaceuticals, Inc. Derivative Litigation, Civil. No. B0019077 (M) (Sullivan Chancery, Tennessee) (Judge McLellan). Attorneys served as lead counsel in a shareholder derivative action against the Board of Directors and certain officers at King Pharmaceuticals alleging various breaches of fiduciary duty, abuse of control, unjust enrichment and waste of corporate assets. The parties settled the case for substantial and material revisions to the Company's corporate governance practices.
- In re: Caremark RX, Inc. Stock Option Litigation, Civil No. 06-C-1329 (Davidson County, Tennessee). Attorneys acted as co-lead counsel in litigation against the board of directors of Caremark RX, Inc. alleging breach of fiduciary duties resulting from the Board's attempt to merge the company with CVS Corporation, Inc. and extinguish their liability for improperly backdating stock option grants to certain Board members and high-ranking officers at the Company. A settlement was reached that provided for corporate governance reforms concerning the granting of options, additional disclosures to voting shareholders prior to the merger vote, and recognition that the case indirectly resulted in additional compensation to shareholders.

WAGE & HOUR CLAIMS

LABOR and EMPLOYMENT CASES

- Thompson v. North American Stainless, L.P., 562 U.S. 170 (2011). Member David O'Brien Suetholz litigated a Title VII retaliation case for seven years on behalf of the son of a Union pipefitter who was terminated shortly after his fiancé filed an EEOC complaint against their mutual employer. The unresolved question was whether a third party is protected from retaliation solely because of their close relationship with the person engaging in protected activity. After winning at the Sixth Circuit Court of Appeals and losing before the *en banc* Sixth Circuit Court of Appeals the Supreme Court of the United States accepted and resolved the question in favor of the Plaintiff Eric Thompson. Justice Antonin Scalia wrote for the unanimous Court that Title VII prohibits retaliation against closely related third parties because harming loved ones is the oldest and most effective form of retaliation.
- Int'l Brh'd of Teamsters, Local 651 v. Philbeck, 5:10-cv-105-DCR (E.D.KY 2018). The Firm successfully litigated action requesting temporary restraining order and permanent injunction by Local Union to secure control of Facebook page belonging to the Union.
- Matthew Denholm, RD of NLRB Region 9 v. Smyrna Ready Mix Concrete, LLC, 5:20-cv-320-REW (E.D.KY 2019). Firm successfully litigated NLRB charges culminating in complaint for 10(j) injunctive relief where federal district court order the reinstatement of seven drivers and their plant manager and the reopening of a concrete plant.

- Zeon Chemicals, L.P. v. UFCW Local 72-D, 949 F.3d 980 (6th Cir. 2020). The Firm successfully appealed a district court's reversal of the Union's arbitration victory for an unjustly terminated member who was ordered reinstated with full back pay.
- Churchill Downs Racetrack LLC v. Laborers Local 576, 2020 WL 6946574 (W.D.KY 2020). The Firm successfully defended an arbitration award that ordered the company to cease subcontracting housekeeping and maintenance work at an off-track facility covered by the contract. The effect of the arbitrator and district court's holding was to increase the size of the Union's bargaining unit by one-third.
- Workforce Development Cabinet v. Gaines, 276 S.W.3d 789 (KY 2008). Member David O'Brien Suetholz successfully appealed to the Kentucky Supreme Court a decision that denied the protection of the public whistleblower protection statute to a state employee who reported waste, fraud or abuse to officials in her own Cabinet. The Supreme Court decision had the effect of expanding whistleblower protections for public employees in Kentucky.

CIVIL RIGHTS AND SEXUAL ASSAULT CASES

- Joshua Lipscomb v. Metro. Gov't of Nashville & Davidson Cnty., No. 22-0501-1 (Chancery Ct. for Davidson Cnty., Tenn.) (Chancellor Moskal). Attorneys and partnering firm obtained a preliminary injunction to preserve constitutional rights of local firefighter who was unlawfully disciplined for engaging in free speech, culminating in a \$450,000 settlement.
- Arnold v. Cornerstone Church of Nashville, Inc., et al., No. 16C1131 (Davidson Cnty., Tenn. Cir. Ct. 2017). Attorneys represented a sexual assault survivor, obtained sanctions against the church for discovery misconduct, and which resolved in a confidential settlement.
- Juana Villegas v. Metro. Gov't of Nashville & Davidson Cnty., No. 11-6031 (6th Cir. 2012). Attorneys filed an *amicus* brief in support of an immigrant woman forced to give birth in shackles, and in which Sixth Circuit found in favor of that victim on her claims.
- Doe v. Corrections Corporation of America, 3:15-cv-00068 (M.D. Tenn. 2016). Attorneys represented women alleging unconstitutional, invasive, strip searches in a Tennessee prison.
- Escobar v. Gaines, 3:11-cv-994 (M.D. Tenn. 2011). Attorneys represented immigrants who were unlawfully arrested in their homes, resulting in a \$310,000 settlement from Immigrant and Customs Enforcement and the Nashville Police Department, a confidential monetary settlement with additional defendants, and 7 years of deferred action status for the noncitizen plaintiffs.

- Occupy Nashville v. Haslam, No. 3:11-cv-01037 (M.D. Tenn. 2011). Attorneys represented Occupy Nashville protestors to protect their First Amendment rights, including a temporary injunction preserving their right to protest.
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REPORTED DECISIONS

- *Staubus v. Purdue Pharma, L.P.*, No. 2:17-CV-122-TAV-CLC (E.D. Tenn. Oct. 20, 2017): granting plaintiff's motion to remand for lack of diversity jurisdiction, in decision subsequently cited as persuasive authority in remand orders in other opioids lawsuits.
- *Dunaway v. Purdue Pharma, L.P.*, 391 F. Supp. 3d 802 (M.D. Tenn. 2019): Denying defendant's motion to stay, granting plaintiff's motion to remand, and remanding matter to state court for lack of federal question jurisdiction. Decision subsequently cited as persuasive authority nationwide in other stay denials and remand orders in opioids lawsuits.
- *Jared Effler, et al. v. Purdue Pharma, et al.*, 614 S.W.3d 681 (Tenn. 2020): Landmark ruling holding that drug companies can be held liable as "drug dealers" under Tennessee's Drug Dealer Liability Act, including upholding claims of plaintiff baby born drug dependent.
- *Doe v. Wilson County School System*, 564 F. Supp. 2d 766 (M.D. Tenn. 2008): granting judgment to plaintiff for violation of establishment clause rights of a kindergartner.
- *Friedmann v. Corrections Corp. of Am.*, 310 S.W.3d 366 (Tenn. Ct. App. 2009): in case in which firm attorney submitted an *amicus* brief, finding that defendant prison operator was the functional equivalent of a governmental agency and therefore subject to open records requests.
- *Escobar v. Gaines*, No. 3:11-cv-0994, 2014 WL 4384389 (M.D. Tenn. Sept. 4, 2014): Denying defendant's motion for summary judgment in case alleging civil rights violations associated with law enforcement of an apartment complex.
- *Doe v. Corrections Corporation of America*, No. 3:15-cv-68, 2015 WL 4067765 (M.D. Tenn. July 2, 2015): denying motion to dismiss in case alleging unconstitutional strip searches of female visitors to Tennessee prison.
- *Akridge v. Finnegan*, No. 3:13-cv-00588, 2016 WL 743416 (M.D. Tenn. Feb. 22,

2016): Order largely denying motion for summary judgment concerning unreasonable search and seizure.

- *Skeete v. Republic Schools Nashville*, No. 3:16-cv-0043, 2016 WL 9307503 (M.D. Tenn. May 4, 2016): denying motion to dismiss in class action challenging unlawful robo-texts under the Telephone Consumer Protection Act.
- *Skeete v. Republic Schools Nashville*, No. 3:16-cv-0043, 2017 WL 2989189 (M.D. Tenn. Mar. 2017): granting class certification in class action challenging unlawful robo-texts under the Telephone Consumer Protection Act.
- *Cates v. Crystal Clear Techs., LLC*, 874 F.3d 530 (6th Cir. 2017): overturning grant of motion to dismiss on antitrust claims related to alleged unlawful tying arrangements.
- *Davis Neurology PA v. DoctorDirctory.com LLC, et al.*, 896 F.3d 872 (8th Cir. 2018): vacating trial court motion to dismiss and remanding to state court for lack of jurisdiction, in lawsuit that ultimately resolved as a class settlement under the Telephone Consumer Protection Act for recipients of junk advertising faxes.
- *Clarke v. City of Franklin*, 639 S.W.3d 602 (Tenn. Ct. App. 2021), appeal denied (Oct. 14, 2021): upholding grant of summary judgment in plaintiff's favor on liability of city for unlawful liens and overturning trial court decision denying homeowners' monetary damage award.
- *Doup v. Van Tuyl Grp. LLC*, 2021 WL 1541552 (N.D. Tex. 2021): Denying motion to dismiss and rejecting defendant's argument that court lacked subject matter jurisdiction over claims against Berkshire Hathaway affiliate under Telephone Consumer Protection Act for unlawful marketing calls.
- *Duling v. Mid-American Credit Union*, 521 P.3d 1145 (unpublished) (Kan. Ct. App. Dec. 16, 2022): affirming trial court decision denying motion to compel arbitration in putative class action challenging overdraft fee assessments.

MURRAY & MURRAY CO., L.P.A.
111 E. SHORELINE DRIVE
SANDUSKY, OHIO 44870
www.murrayandmurray.com
(419) 624-3000

The Sandusky law firm of Murray & Murray was founded in 1931 by Emmett Murray and his brother Thomas Murray. The firm presently has ten lawyers exclusively practicing civil complex litigation. Seven of the lawyers are Murrays.

PROFESSIONAL BIOGRAPHY OF MURRAY & MURRAY

DENNIS E. MURRAY, SR. received a Juris Doctor degree from the University of Michigan Law School. He received his undergraduate degree from The College of Holy Cross. He has been a licensed and practicing plaintiffs' trial lawyer since 1963. He is also an inactive licensed, certified public accountant; licensed to practice in the U.S. Supreme Court and many of the federal and appellate courts; a member of the Bars of the States of Ohio, Florida, and Michigan and is a member of the Ohio Society of Certified Public Accountants and of the Ohio Association of Justice. Dennis was an Ohio Supreme Court Bar Examiner for 5 years and part of a task force on the Ohio Supreme Court's Unauthorized Practice of Law. He has had extensive jury trial practice for 60 years; receiving multi-million dollar jury verdict awards for trials involving bad faith insurance company misconduct, tortious interference with contractual rights, negligent training and negligent discharge of firearms; commercial and securities litigation and for automobile and motorcycle liability. He has received the highest jury awards in many categories in the State of Ohio and has had extensive trial and appellate practice in business and commercial litigation; has been lead counsel in multi-million dollar resolutions of litigation concerning securities, leveraged buyouts, insurance; motor vehicles and consumer fraud and has litigated numerous class actions in the areas of employment discrimination, toxic torts, and commercial litigation in state and federal courts for 6 decades. His name appears as lead counsel in numerous cases decided by the Ohio Supreme Court in the last 60 years, including the issues of class certification; toxic torts; jury trial entitlement; insurance company duties to insureds and to injured parties; duties owing to minority shareholders; exclusivity of "fair cash value" in squeeze out mergers; whistle blower protection; labor organization liability for tortious misconduct; punitive damage standards and many other extremely significant legal issues. Mr. Murray is recognized as a "Super Lawyer" in Ohio and in 2015 was awarded the "Lifetime Achievement Award" by the Ohio Association for Justice.

DENNIS E. MURRAY, JR. received a Juris Doctor cum laude degree from Georgetown University Law School in 1987. He received a Bachelor of Arts, magna cum laude, from Georgetown University in 1984, Phi Beta Kappa. He is licensed to practice law in the State of Ohio, the United States District Court for the Northern District of Ohio, and Sixth Circuit U.S. Court of Appeals. He is the Co-author of *Corporate Constituencies: Whose Corporation Is It Anyway, The Corporate Analyst; The Unconstitutionality of Sovereign Immunity in Ohio: Last*

Stand for the Illegitimate King. He served as a Grader for the Ohio Bar Examinations from 1995-2005; the Ohio Supreme Court Traffic Rules Committee from 1990 to 1994; the Erie-Huron Grievance Committee from 1992-2006; as a General Assembly representative to the Ohio Supreme Court's Court Funding Task Force from 2011-13. He served as the State Representative for the 80th District in the Ohio House of Representatives from 2009-2012, as a member of Ohio's Constitutional Modernization Commission from 2011-13 and as a Sandusky City Commissioner from 2006-2008 and 2014-present (president 2008 and 2014-2019; vice-president 2020). He has been AV rated for over twenty years and has been recognized as an Ohio "Super Lawyer" for many years. He practices in Complex Civil Litigation including investor, class action, banking, antitrust, consumer issues and legal malpractice and fraud.

CHARLES M. MURRAY received a Juris Doctor degree from the University of Dayton in 1991. He received a Bachelor of Arts degree from Xavier University in 1987. He worked as the Assistant Prosecuting Attorney in the Adult Felony Trial Division in Erie County from 1991 to 1993. He is licensed to practice law in the State of Ohio, the U.S. District Court for the Northern District of Ohio, Sixth Circuit U.S. Court of Appeals. He is board certified as a Civil Trial Advocate by the National Board of Trial Advocacy. He is a member of the Erie County and Ohio State Bar Associations; the Cleveland Academy of Trial Lawyers; American Association for Justice; and Ohio Association for Justice. He is a member of the National College of Advocacy and the National Board of Trial Advocates. He was appointed by Ohio Supreme Court to service on the Task Force for Jury Service from 2002 to 2004. He is a member of the Erie County Public Defenders' Board, the Sandusky Central Catholic School Board and the State Theatre Board. He practices in Personal Injury, Wrongful Death, Medical Malpractice, and Plaintiffs' Trial Practice.

MARGARET M. MURRAY received a Juris Doctor degree as a merit scholar from Case Western Reserve University in 1996. She received a Bachelor of Arts degree from College of The Holy Cross in 1993. She is licensed to practice law in the State of Ohio, Commonwealth of Pennsylvania, U.S. District Court for the Northern District of Ohio, U.S. District Court for the Southern District of Ohio, U.S. District Court for the Eastern District of Michigan, and Sixth Circuit U.S. Court of Appeals. She is a member of the Erie County and Ohio State Associations. She is a former Trustee of the Ohio Association for Justice and is a member of the American Association for Justice. She worked as an Assistant Prosecuting Attorney for Erie County from 1996 to 1997. Appointed by U.S. Senator Sherrod Brown, she served on the United State Senate Judicial Nominations Committee for the Southern District of Ohio from 2009-2012 and in 2016. In 2017, Margaret was appointed to the U.S. Senate Judicial Nominations Commission for the State of Ohio by Senator Brown. She has lectured on Federal Multi-District Litigation, subrogation, civil procedure, class actions, insurance law, ethics, product liability and brief writing. She is a former president of the Second Harvest Food Bank of North Central Ohio. She was appointed as a member of the Ohio State Bar Association Special Committee on Subrogation and as a member of the Ohio State Bar Association Subrogation Task Force. She was also a member of the OSBA Legal Ethics and Professional Conduct Committee and the Erie-Huron County Joint Certified Grievance Committee from 2011-2020 (Chair 2015-2016). She served as the Chair of the Ohio Association for Justice Covid-19 Immunity Task Force in 2020. Margaret has served as the Amicus Curiae Chair for the Ohio Association of Justice since 2009. Margaret has served a Commissioner on the Erie County MetroParks Board since 2016. Margaret was recently appointed by the Ohio Supreme Court to serve on the Ohio

Board of Professional Responsibility. She practices in Personal Injury, Complex Litigation, Class Actions, and Wrongful Death.

JAMES L. MURRAY received a Juris Doctor degree from Case Western Reserve University in 1997. He received a Bachelor of Arts degree from Boston College in 1994. He is licensed to practice law in the State of Ohio and the U.S. District Court for the Northern District of Ohio. He is a member of the Erie County, Ohio State and American Bar Associations. He is a member of the Ohio Association for Justice and the American Association for Justice. He worked as an Assistant Prosecuting Attorney in the Felony Division of Cuyahoga County from 1998-2002. He served nine years on the Legal Aid of Western Ohio and Advocates for Basic Equality Board of Trustees including four years as Vice President. He is the current Vice Chair of the Erie County Democratic Party, is a member of the Wightman Wieber Foundation Board of Trustees and sits on the Huron Baseball Softball Program Board. His practice areas include Personal Injury, Discrimination, Wrongful Death, Breach of Contract and Criminal Defense.

FLORENCE A. MURRAY joined the firm in 2011. She received her Juris Doctor degree from the Michael E. Moritz College of Law at the Ohio State University in 2005 where she received the James F. Flynn Memorial, Wilbert G. and Hilma R. Schwer, and Women Lawyers of Franklin County scholarships. She also holds a Masters in Business Administration from the Weatherhead School of Management at Case Western Reserve University, a Masters in Education from Ashland University and a Bachelors of Arts from Saint Ignatius of Loyola University in Baltimore, Maryland. She is licensed to practice in the State of Ohio, U.S. District Court for the Northern District of Ohio, and Sixth Circuit U.S. Court of Appeals. She is board certified as a Civil Trial Advocate by the National Board of Trial Advocacy and a member of that organization. She is a member of the Cleveland Academy of Trial Lawyers, National Lawyers Guild, American Board of Trial Advocacy, Association for Truck Accident Attorneys where she is Co-Chair of the Women's Caucus, National Trial Lawyers, National Police Accountability Project, Lawyers Defending Democracy, Public Justice, National Civil Justice Institute, Belli Association, and Erie County, Toledo, Ohio State, Disability Rights, Education Law, American and Federal Bar Associations. She is a Trustee of the Ohio Association for Justice where she is the former Chair of the Ohio Trucking Safety Section, and, a Trustee of the American Association for Justice where she is the current Chair of the Section Leaders Council, former Chair of the Civil Rights and Railroad Sections and of the State Delegates, and a graduate of its Diversity and Inclusion Leadership Academy. She also serves a board member of the Erie County Court Appointed Special Advocates and the Erie County Ohio State Alumni Association. She practices in the areas of Civil Rights, Railroad Law, Trucking Crashes, Wrongful Deaths, Class Actions and Insurance Law.

NOLAN E. MURRAY joined the firm in 2021 and represents the first member of the fourth generation of the Murray family to join the law firm. Nolan received his Juris Doctor degree from the Michael E. Moritz College of Law at The Ohio State University in 2018. He earned a Bachelor of Business Administration, magna cum laude, from the University of Notre Dame, in 2014. Nolan is a Certified Public Accountant in Ohio. He is licensed to practice law in the State of Ohio, the U.S. District Court for the Northern District of Ohio, and the Sixth Circuit U.S. Court of Appeals. He is a member of the Ohio State Bar Association, the Erie County Bar

Association, the Ohio Association for Justice and the American Association for Justice. His practice areas include Personal Injury, Wrongful Death, Breach of Contract, Consumer Law, Real Estate Leasing and Transactions Advice as well as General Corporate representation, including formation, structuring and contract review.

WILLIAM H. BARTLE received a Juris Doctor degree from Case Western Reserve University in 1975. He received a Bachelor of Arts from Hamilton College in 1971. He attended the Albany Law School of Union University. He is licensed to practice law in the State of Ohio, U.S. District Court for the Northern District of Ohio, Sixth Circuit U.S. Court of Appeals, and U.S. Supreme Court. He is a member of the Erie County and Ohio State Bar Associations. He practices in Personal Injury Law, Products Liability Law, Insurance Coverage Contract Interpretation Law, Employment Discrimination Law, and Plaintiffs' Trial Practice.

DONNA JEAN EVANS received a Juris Doctor degree magna cum laude from Cleveland State University in 2000. She received a Bachelor of Arts degree cum laude from Marian College in 1975. She is licensed to practice law in the State of Ohio and U.S. District Court for the Northern and Southern Districts of Ohio and the Sixth Circuit. She is a member of the Erie County and Ohio State Bar Associations. She practices in Complex Litigation, Commercial, and Class Actions.

JOSEPH A. GALEA received a Juris Doctor degree from Case Western Reserve University in 2012 and a Bachelors of Arts from the University of Florida as a National Merit Scholar in 2008. He is licensed to practice law in the State of Ohio, the U.S. District Court for the Northern District of Ohio, and the U.S. Court of Appeals for the Sixth Circuit. He is a member of the Erie County and Ohio State Bar Associations, the Ohio Association for Justice, and the American Association for Justice. He is the Secretary of the Erie-Huron Joint Certified Grievance Committee and a commissioner on the City of Sandusky Planning Commission. He has prosecuted attorney discipline cases to the Ohio Board of Professional Conduct. He practices in Commercial and Complex Litigation, Personal Injury, Railroad Litigation, and Employment Litigation.

Murray & Murray has a very active appellate practice, including a total of over 50 published cases before the Ohio Supreme Court and over 100 published decisions in Ohio. These cases frequently include issues of great social and public importance. Murray & Murray attorneys appear regularly in the Supreme Court of the State of Ohio, appellate districts throughout the State of Ohio, U. S. District Courts, and U.S. Courts of Appeals.

Our firm has embraced technologies that maintain a lawyer's competitive edge. The professionalism of the lawyers at Murray & Murray has allowed the firm to enjoy relationships with opposing counsel that also work for the benefit of the respective clients by speeding litigation, lowering costs and reducing some of the less productive aspects of modern litigation.

The experience of Murray & Murray in class action work has been extensive. Murray & Murray has been actively involved in class litigation almost 50 years. Examples of some of the cases include:

- *Biechele v. Norfolk & Western Railway Co.*, 309 F.Supp. 354 (N.D. Ohio 1969) (environmental)
- *Nemitz v. Norfolk & Western Railway Co.*, 404 U.S. 37, 30 L. Ed. 2d 198, 92 S. Ct. 185, 62 Ohio Op. 2d 29, 78 L.R.R.M. 2721; 66 Lab. Cas. (CCH) ¶12, 183 (1971) (union employee wages)
- *Manning v. Int'l Union and General Motors*, 466 F.2d 812 (C.A. 6, 1972) (Title VII)
- *Raschaks v. General Motors*, 9 Fair Empl. Case No. 1406 (N.D. Ohio 1973) (employment)
- *Frank v. Vulcan Materials Co.*, C.A. No. E-81-16 (Erie Co. Ohio 1981) (environmental)
- *Frazier v. Gold Bond Building Products Co.*, Sandusky County Case No. 79-CV-185 (Ohio 1981) (environmental)
- *Clark v. Pfizer, Inc.*, C.A. No. S-84-7 (Sandusky Co. Ohio 1984) (environmental)
- *Sally V. Neff, et al. v. Celanese Piping Systems, et al.*, Franklin County Court of Common Pleas Case No. 85-CV-04-2279 (Ohio)
- *Harrell v. Marathon Oil Co.*, 32 Ohio St.3d 397, 513 N.E.2d 776 (1987) (securities)
- *Nickels, et al. v. Cedar Point, Inc.*, et al., Erie County Court of Common Pleas Case No. 45323 (Ohio 1987) (securities)
- *Gergely, et al. v. VanVoorhis, et al.*, Erie County Court of Common Pleas Case No. 87-CV-469 (Ohio) (securities)
- *Warner, et al. v. Waste Management, Inc., et al.*, 36 Ohio St. 3d 91, 521 N.E.2d 1091 (1988) (environmental)
- *Pippert v. Akron Coca Cola Bottling*, Erie County Court of Common Pleas Case No. 88-CV-070 (Ohio)
- *Limberios v. Vermilion River Resorts*, Lorain County Court of Common Pleas Case No. 88-CV-101212 (Ohio 1988) (consumer)
- *In re Trustcorp Securities Litigation*, U.S. Dist. Court Case No. 3:89CV7139 (N.D. Ohio 1990) (securities, fraud-on-the-market)
- *Schiller v. BancOhio National Bank*, Franklin County Court of Common Pleas Case No. 90CVH07-5340 (Ohio) (duties of indenture trustee)
- *Dowling v. Narragansett Capital Corp.*, 735 F. Supp. 1105 (D.R.I. 1990) (proxy fraud; investment banking negligence in connection with corporate takeover)
- *Bettis v. Ruetgers-Nease*, U.S. Dist. Court Case No. 4:90-CV-0502 (N.D. Ohio 1990) (environmental contamination)
- *Glatz, et al. v. Dublin Securities, Inc., et al.*, Erie County Court of Common Pleas Case No. 91-CV-274 (Ohio 1991) (state securities law)
- *Kitchen v. Aristech Chemicals*, 769 F.Supp. 254 (S.D. Ohio 1991) (environmental contamination)
- *Glatz, et al. v. Beaman, et al.*, Erie County Court of Common Pleas Case No. 92-CV-058

(Ohio 1992) (state securities law)

- *Polikoff v. Adam*, 67 Ohio St.3d 100 (1993) (shareholder derivative suit)
- *Miner, et al. v. Figgie, et al.*, Lake County Court of Common Pleas Case No. 93-CV-001575, C.A. No. 94-L-069 (Ohio 1993) (derivative stockholder litigation)
- *Vettel v. Bank One Sidney*, Erie County Court of Common Pleas Case No. 93-CV-155 (Ohio 1993) (consumer)
- *McConocha v. Blue Cross Blue Shield of Ohio*, U.S. Dist. Court Case No. 3:93-CV-7534 (N.D. Ohio 1993) (consumer insurance, 80/20 co-pay)
- *Shaver v. Standard Oil Co.*, 89 Ohio App.3d 52 (1993) (consumer; antitrust)
- *Kreidler v. Western Southern Ins. Co.*, Erie County Court of Common Pleas Case No. 95-CV-157 (Ohio 1995) (insurance fraud)
- *Smolik v. The Lincoln Electric Company*, Cuyahoga County Court of Common Pleas Case No. 288514 (Ohio 1996) (executive bonus comp plan)
- *In Re Corrpro Securities Litigation*, U.S. Dist. Court Case No. 5:95 CV 1223 (N.D. Ohio 1997) (securities)
- *Cope, et al. v. Metro Life Ins. Co.*, 82 Ohio St.3d 426 (1998)(establishing the ability to sue for uniform written misstatements in order to satisfy the Rule 23 predominance requirement)
- *Shaver v. The Standard Oil Company*, 135 Ohio App.3d 242 (Huron Co. 1999)(breach of fiduciary duty)
- *Everett v. Verizon Wireless, et al.*, No. 3:00-CV-7763 (N.D. Ohio 2000) (consumer)
- *Gomez v. Towne Bancorp*, 129 F.Supp.2d 1116 (N.D. Ohio 2000) (breach of contract by stock escrow agent in connection with a best efforts securities offering)
- *Toledo Blade Pension Plan v. Investment Performance Services*, No. 3:04-CV-7123 (N.D. Ohio 2004) (breach of contract)
- *Miller, et al. v. Volkswagen of America*, Erie County Court of Common Pleas Case No. 2004-CV-558 (Ohio 2004) (consumer/automobile protection)
- *Hepp, George et al. v. Michael Brown et al.*, Seneca County Court of Common Pleas Case No. 52964 (Ohio 2004) (fraudulent sale of viatical settlements)
- *NicSand, Inc. v. 3M Co.*, 507 F.3d 442, 2007 U.S. App. LEXIS 24270, 2007 FED App. 0424P (6th Cir.), 2007-2 Trade Cas. (CCH) P75,908 concerning the illegality of exclusive dealing agreements those foreclose significant percentages of the retail market)
- *Schemmer, et al. v. ChartOne, Inc.*, N.D. Ohio No. 1:05-CV-02923, 2007 WL 1822274 (fraud)
- *MPW Industrial Services Group, Ltd.* U.S. Dist. Court Case No. 2:07-cv-442 (S.D. Ohio 2007) (proxy and 10b-5 class action securities fraud)
- *Firelands Reg. Med. Ctr. v. Jeavons*, 2008 WL 4408600 (Erie County, Ohio) (uninsured protection)
- *Midland Funding LLC v. Brent, et al.*, 3:08-CV-01434, 2009 WL 3437243 (N.D. Ohio

2008) (consumer credit)

- *Molesky, et al. v. State Collection & Recovery Services, Inc.*, N.D. Ohio No. 3:12-cv-2639 (F.D.C.P.A.)
- *Polinsky v. Community Health Partners Regional Health Systems*, U.S. District Court Case No. 1:10-CV-02544 (N.D. Ohio 2010) (F.D.C.P.A. case)
- *Streeter v. Mercy Health System-Northern Region*, CI 200903601 (Lucas Co., OH) (consumer)
- *Anderson v. Barclays Capital Real Estate, Inc. d.b.a. HomEq Servicing*, U.S. District Court Case No. 3:09-CV-2335 (N.D. Ohio 2009) (consumer)
- *Stammco LLC v. United Telephone Co. of Ohio*, 125 Ohio St.3d 91 (Ohio 2010) (telephone cramming)
- *Pevets v. Crain Communications*, 2011-Ohio-2700 (Ohio 6th Dist. 2011) (breach of contract)
- *Franklin v. Midland Funding, LLC*, 2011 U.S. Dist LEXIS 89919 (N.D. Ohio 2011) (F.D.C.P.A.)
- *Martha Vassalle, et al. v. Midland Funding LLC, et al.*, U.S. District Court Case No. 3:11-cv-0096 (N.D. Ohio 2011) (debt collection case F.D.C.P.A.)
- *Baker v. American Greetings Corp.*, N.D. Ohio No. 1:12-cv-00065 (company owned life insurance (COLI) placed without knowledge or consent)
- *Johnson v. Midland Credit Management, Inc.*, Case No. 1:05-CV-1094 (N.D. Ohio, December 12, 2013) (F.D.C.P.A.)
- *Arlington Video, Inc. v. Fifth Third Bancorp*, 515 Fed. Appx 426 (6th Cir. 2013)
- *Oatman v. InfoCision, Inc., et al.*, 2013 U.S. Dist. LEXIS 106453 (N.D. Ohio 2013) (telemarketing)
- *Fowler, et al. v. ABJ Equipfix, LLC*, U.S. District Court Case No. 3:11-CV-2251 (N.D. Ohio 2013) (employment)
- *PNC National Bank Association v. Mark A. Stuckey, et al.* Erie County Court of Common Pleas Case No. 2013-CV-0634 (Ohio) (excess forced placement of property insurance)
- *Sonia Filby, et al. v. Windsor Mold USA, Inc.*, U.S. District Court Case No. 3:13-CV-01582 (N.D. Ohio 2013) (employment)
- *Jerry Hunt, et al. v. YRC Worldwide, Inc., et al.*, U.S. District Court Case No. 2:13-cv-993 (S.D. Ohio 2013) (employment)
- *Charles Johnson, et al. v. Ford Motor Company*, U.S. District Court Case No. 3:13-cv-6529 (S.D. West Virginia 2013) (product)
- *George Ressler v. Wallace Ackley, et al.*, U.S. District Court Case No. 2:16-cv-86 (S.D. Ohio 2016) (landlord/tenant)
- *James Miller v. Peggybank.com LLC, et al.*, U.S. District Court Case No. 1:16-CV-1011 (N.D. Ohio 2016) (consumer fraud)
- *E. Velasquez, et al. v. Quesadillas, Inc.*, Erie County Court of Common Pleas Case No.

17-CV-007 (Ohio) (employment)

- *Zehentbauer Family Land, LP v. Chesapeake Expl., L.L.C.*, 935 F.3d 496, 2019 U.S. App. LEXIS 24289, 2019 FED App. 0198P (6th Cir.), 104 Fed. R. Serv. 3d (Callaghan) 867, 2019 WL 3820259
- *Smith v. FirstEnergy Corp., et al.*, U.S. District Court Case Nos.: 2:20-cv-03755; 03954; 03987 (N.D. Ohio 2020) (RICO, injury through criminal acts, unjust enrichment and negligence and/or gross negligence)



Kelley Ferraro

Ernst & Young Tower | 950 Main Ave, Ste 1300 | Cleveland, OH 44113 | P 216.575.0777 | F 216.575.0799 | TF 888.839.8479

One of the keys to the success of Kelley Ferraro, LLC is our thorough case preparation and skill in the courtroom. We pride ourselves on being trial lawyers who have a reputation for strategic, aggressive litigation. Whether our opponent is an auto insurance company or a multinational corporation, we are prepared to fight as hard as necessary to get results. We have dedicated our careers to protecting the rights of injury victims and the families that have lost loved ones to wrongful death. By working closely with our clients, we get to know them as people and truly understand their needs.

PRACTICE AREAS

Asbestos, personal injury, workers' compensation (including Federal Employer Liability Act claims), class action and multi-district lawsuits helping to hold companies, manufacturers, and others responsible for the harm they cause, and criminal defense. Defective products, dangerous drugs, and discriminatory practices are all examples of existing or potential class action lawsuits the firm is currently involved in or are investigating.

FIRM EXECUTIVES

James L. Ferraro
John Martin Murphy

COMPANY HISTORY

For over 25 years, Kelley Ferraro, LLC, has served Ohio residents with experienced personal injury representation. Together with attorney Michael V. Kelley, attorney James L. Ferraro founded the firm in 1997. Today, it has grown to include more than 60 staff members and lawyers.

In addition to personal injury and wrongful death lawsuits in Ohio, our lawyers act as co-counsel with lawyers in different jurisdictions on several thousand asbestos cases throughout the U.S. As one of the largest asbestos and mesothelioma litigation practices in the country, we have over 45,000 cases. Our attorneys have recovered over \$1 billion for asbestos and mesothelioma clients. We serve on the Plaintiffs Steering Committee for multi-district litigation in the Philips Recalled CPAP litigation and have been involved in over ten different mass tort MDLs such as representing municipalities in the Opioid litigation, 3M Combat Earplug litigation, Roundup litigation, and Zantac litigation. In addition, the firm has participated in other MDLs such as the YAZ/Yasmin/Ocella birth control where we provided document review assistance, and in the Xarelto and Vioxx MDLs. Attorneys within the firm have served as Chairman of the U.S. Minerals Asbestos Claimants Committee, the Insul Products Asbestos Claimants Committee, as Co-Chairman of the Flintkote Asbestos Claimants' Committee, current member of the Trust Advisory Committee ("TAC") for the DII Trust (Halliburton) and Plibrico Trust, as well as being a designated member of the Owens Corning/Fibreboard TAC.

KelleyFerraro.com

PLAKAS | MANNOS LAW FIRM OVERVIEW

- We are an AV rated law firm headquartered in Canton, Ohio with more than 50 years of experience litigating complex cases all over the State of Ohio.
- We are deeply rooted in Northeast Ohio and have extensive experience litigating cases in the Northern District of Ohio and in Columbiana and surrounding counties. Our Canton headquarters are located 40 miles from East Palestine.
- We have been selected by judges in the Northern District of Ohio to serve as members of the Federal Magistrate Judge Merit Selection Panel.
- We have litigated class actions and collective actions before the state and federal courts in Ohio.
- We have litigated a number of cases that have garnered national attention, including the recent case of Gibson's Bakery v. Oberlin College wherein we obtained a jury verdict in favor of our client that resulted in a more than \$44 Million verdict, the largest defamation verdict in Ohio history.
- We have litigated cases on behalf of large groups of landowners in Columbiana County, Carroll County, Jefferson County, and the Northern District of Ohio against oil and gas companies to protect landowner rights and recover economic damages.
- Our Firm served on the executive committee for the University Hospital embryo destruction cases.
- We have handled cases involving complex environmental and waste disposal issues.
- Our members are recognized for their high levels of professionalism and ethics, with our partner David Dingwell appointed by the Ohio Supreme Court to serve as a member of Ohio's Board of Professional Conduct, serving for 9 years, and in the statewide recognized position of Board Chair in 2017 and 2018.
- Our members have been asked to deliver several dozen Ohio Supreme Court approved CLE presentations to both attorneys and judges throughout the region in the past several years. Currently, the Ohio Judicial College of the Supreme Court of Ohio has requested that two of our members provide CLE presentations at the Ohio Common Pleas Court Judge's statewide convention scheduled for June. Additionally, the Academy of Trial Lawyers of Allegheny County has asked Lee Plakas to be their featured presenter at their annual retreat in October which will be attended by approximately 200 lawyers and judges from Western Pennsylvania.
- Our Firm members are past presidents of the Ohio Association for Justice, Summit County Bar Association, Stark County Bar Association, and Stark County Association for Justice.

GARY A. CORROTO, ESQ.

Plakas Mannos - Partner

**200 Market Avenue North
Suite 300
Canton, Ohio 44702
(330) 453-5466**

**121 South Main Street
Suite 310
Akron, Ohio 44308
(330) 784-5466**

gcorroto@lawlion.com

I. EDUCATION

Undergraduate: Youngstown State University, 1983-1985; Westminster College, 1985-1987; Bachelor of Arts in History.

Postgraduate: University of Akron, School of Law, 1988-1991; Juris Doctorate; Cum Laude;
Received Herman Muelstein Foundation Scholarship, 1988-1989, 1989-1990, and 1990-1991;
Member, University of Akron, School of Law Moot Court Team.

II. PROFESSIONAL HONORS AND AWARDS

Ohio Super Lawyer – *The Cincinnati Magazine* 2010, 2011, 2012, and 2013

Ohio Super Lawyer: Named Ohio Super Lawyer - *Super Lawyers Magazine* 2010 - 2023.
o 2014-2023 – Business Litigation

Best Lawyers in America: Selected by peers for inclusion 2014 – 2023
Editions of “*Best Lawyers in America*”
o 2014-2023 – Commercial Litigation
o 2018-2023 – Corporate Law

III. PROFESSIONAL ASSOCIATIONS

American Association for Justice (1991-present);
Ohio Association for Justice (1991-present);
Stark County Association for Justice (1991-present);
American Bar Association (1991-present);
Ohio State Bar Association (1991-present);
Stark County Bar Association (1991-present).

IV. SPECIAL COMMITTEES AND PRESENTATIONS

Chairman – Corporate Law Committee, Stark County Bar Association

Chairman - Intellectual Property Committee, Ohio Association for Justice

National Business Institute – December, 2009 Cleveland, Ohio
Presentation Topic: S. Corp in Detail

National Business Institute – December, 2009 Cleveland, Ohio
Presentation Topic: Walking the Ethical Line in Business Transactions

Ohio Association for Justice – 2009
Presentation “Topic: Damages in an Intellectual Property Case

Ohio Association for Justice – 2008
Presentation Topic: Developments in Intellectual Property Law

Stark County Trial Lawyers – 2006
Presentation Topic: Ohio's New Predatory Lending Law

V. PRACTICE AREAS

Business Litigation, Commercial Transactions, Real Estate Transactions, Mergers and Acquisitions, Business Law, Franchise Law, Intellectual Property Rights Litigation.

Ashlie Case Sletvold

Peiffer Wolf Carr Kane Conway & Wise, LLP

Cleveland Office
6370 SOM Center Road, Suite 108
Cleveland, Ohio 44139

Youngstown Office
101 West Federal Street, Suite 2
Youngstown, Ohio 44503

Legal Experience

Practice centers on representing plaintiffs in complex and high-profile disputes including mass torts, constitutional and statutory discrimination claims, and fertility-clinic misconduct

Peiffer Wolf Carr Kane Conway & Wise, LLP, Cleveland and Youngstown, Ohio

Ohio managing partner, civil-rights practice co-chair 2020–present

Chandra Law Firm LLC, Cleveland, Ohio

Administrative partner 2010–2020

Jones Day, Cleveland, Ohio

Associate, product liability and tort litigation 2005–2010

Education

Yale Law School, J.D. (2005), articles editor, Yale Journal of Law & Feminism

University of Akron, B.A., philosophy, *summa cum laude* (2002)

Professional Activities

The William K. Thomas American Inn of Court, Bencher (President 2020–22)

Founder of the Inn's Ginsburg-Scalia Project, an initiative to cultivate professionalism and nurture personal connections in the legal community through individual outreach to former opponents

Magistrate Judge Merit Selection Panel (N.D. Ohio 2021) (appointed by Judge Dan Polster)

American Association for Justice

Ohio Association for Justice (Board of Trustees)

Cleveland Academy of Trial Attorneys (Board Member)

Society of Women Trial Lawyers

Selection Committee, Cleveland Metropolitan Bar Association Professionalism Award

Certified Arbitrator (employment), American Arbitration Association

Legal Network for Gender Equity

Admissions

Ohio, Florida, and Colorado

Supreme Court of the United States

United States Courts of Appeals for the Fourth, Sixth, and Ninth Circuits

United States District Courts for the Northern District of Ohio, Southern District of Ohio, Northern District of Illinois, District of Colorado, District of Maryland, and Middle District of Florida

Appointments

In re: Abbott Preterm Infant Formula Prods. Liab. Litig., MDL No. 3026 (N.D. Ill.), Plaintiffs' Executive Committee

In re: Hair Relaxer Sales Practices, Marketing, and Prods. Liab. Litig., MDL No. 3060 (N.D. Ill.)
Plaintiffs' Steering Committee

Speaking Engagements

CLE Program: What to Know About NEC Cases, American Association for Justice, Birth Trauma Litigation Group (Feb. 5, 2023)

CLE Program: Tepezza Litigation Webinar, MTMP Connect (Dec. 8, 2022)

CLE Program: A Woman's Right to Choose: Healthcare is a Civil Right, AAJ Education National College of Advocacy, Civil Rights Litigation Seminar, Thurgood Marshall School of Law (Oct. 21, 2022)

United States Department of State International Visitor Leadership Program: Human and Civil Rights Advocacy and Awareness, A Regional Project for the Near East and North Africa (Sept. 29, 2022)

OAJ Women's Caucus Roundtable, featured speaker (Sept. 29, 2022)

CLE Program: Training the Next Generation of Legal Professionals, panel discussion moderated by Judge Jennifer Elrod, American Inns of Court (July 23, 2022)

CLE Program: Understanding Necrotizing Enterocolitis and its Consequences, American Association for Justice (July 19, 2022)

CLE Program: § 1981: The Underutilized Tool of Civil-Rights Litigation, American Association for Justice (July 18, 2022)

CLE Program: Professionalism in Action: A Conversation with Judge Phil Calabrese, Ohio Association for Justice (May 6, 2022)

CLE Program: Title VII and Vaccine Mandates, Ohio Association for Justice (Nov. 4, 2021)

Maltz Museum of Jewish Heritage, Virtual Galley Tour on the friendship between Justices Ginsburg and Scalia, Exhibit: *Notorious RBG: The Life and Times of Ruth Bader Ginsburg* (Apr. 6, 2021)

The Sound of Ideas, WCPN, Bill of Rights Day (Dec. 10, 2020)

CLE Program: Ohio's Sexual Assault Kit Testing Initiative, moderator of panel featuring Rachel Dissell, Greta Johnson, and Dr. Rachel Lovell, William K. Thomas American Inn of Court (Dec. 9, 2020)

The Sound of Ideas, WCPN, Constitution Day (Sept. 17, 2020)

CLE Program: Making the Pivot in Your Practice, Cleveland Metropolitan Bar Association panel discussion co-sponsored by the Criminal Law section and the Young Lawyers section (Dec. 10, 2019)

CLE Program: Sunshine Ethics: Integrity in Policy & Procedure, Medina County Leadership Academy (Feb. 8, 2018)

CLE Program: Strengthening Your Case with Public Records, Ohio Association for Justice (May 4, 2017)

CLE Program: Strengthening Your Case with Public Records, Cleveland Employment Lawyers Association (Aug. 2016)

CLE Program: Ohio Sunshine Laws (Public Records and Open Meetings), Medina County Bar Association (Mar. 20, 2015)

CLE Program: Civil Rights as it Relates to Voting Rights, William K. Thomas Inn of Court (Jan. 14, 2015)

Guest Lecturer, Public Records Law, Kent State University, Aviation Law Class (2014–15)

Publications

Nurturing Connection in Crisis, THE BENCHER, THE MAGAZINE OF THE AMERICAN INNS OF COURT (July/Aug. 2020)

Tort Reform Often Lies in the Hands of State Supreme Courts, JONES DAY PRACTICE PERSPECTIVES: PRODUCT LIABILITY & TORT LITIGATION (2008)

Case Comment: *Conflicting Feminisms and the Rights of Women Inmates*, 17 YALE J. OF LAW & FEMINISM 309 (2005)

Comparables for judgments and settlements of male-guard-on-female-inmate sexual-assault cases, PRISON LEGAL NEWS (Feb. 2, 2005)

Master Case No. 4:23-cv-00242-BYP
Atty of Record in: 4:23-cv-00479-DMC

Application for Plaintiff Committee Position

Wesley D. Merillat (008253)
CHARLES BOYK LAW OFFICES, LLC
1500 Timberwolf
Holland, Ohio 43528
Tel: 419.241.1395
Fax: 419.241.8731
wmerillat@charlesboyk-law.com

PROFILE

Joined Charles Boyk Law in 2013 after seven years with mass tort firm, Zoll & Kranz. For more than 10 years, practice has been primarily focused on areas of complex/mass tort litigation. Have been involved in MDL dozens of litigations and have prior committee/leadership experience.

Pragmatic, professional, collaborative, and team-oriented.

Charles Boyk Law is a well-established highly rated plaintiff's firm with offices in Ohio & Michigan. Since its founding in 2003, the firm has successfully handled thousands of complex cases both in Ohio and across the country on behalf of injured parties and their families. Our firm and attorneys have earned numerous recognitions.

BACKGROUND

Education

J.D., Rutgers School of Law (2004)
B.A., Bowling Green State University (1998)

Post-Grad

- Duke Law School: Cert. in Mass-Tort Multi-District Litigation
- Harvard Law: Cert. in Mediation
- United Nations Institute for Training & Research: Cert. in Conflict Resolution

ADMISSIONS & MEMBERSHIPS

State Bars: Ohio, Michigan

U.S. District Courts:

- Northern Dist. of Ohio
- Southern Dist. of Ohio
- Eastern Dist. of Mich.
- Western Dist. of Mich.
- Dist. of Colorado
- Northern Dist. of Ill.
- Central Dist. of Ill.

Memberships: OAJ, AAJ, Ohio Bar Association, Michigan State Bar Association, Toledo Bar Association, National Trial Lawyers

MDL/COMPLEX LITIGATION EXPERIENCE

- Brown v. Whirlpool Corp., et al, N.D. OH 13-cv-01092-JGC (Toxic Tort)
- In re Heparin: MDL 1953 (Drug)
- DePuy Ortho, ASR Hip: MDL 1742 (Medical Device)
- In re Polyurethane Foam: MDL 2196 (Antitrust)
- Nat. Prescription Opiate: MDL 2804 (Drug)
- In re CS CIP, LLC, M.D. Tenn 3:12-bk-01573 (Mass Tort Bankruptcy)
- In re Davol Polypropylene Mesh MDL 2846 (Medical Device)
- In re Vioxx: MDL 1657 (Drug)
- In re Abbott Labs Preterm Infant Nutrition Products MDL 3026 (Product)
- Camp Lejeune Water Contamination: (Toxic Tort)
- In re Atrium Medical Mesh: MDL 2753 (Medical Device)
- In re Roundup: MDL 2741 (Toxic Tort)
- In re 3M Combat Arms: MDL 2885 (Product)
- In re Allergan Biocell: MDL 2921 (Medical Device)
- In re Cook Medical IVC Filter: MDL 2570 (Medical Device)
- In re Paragard IUD: MDL 2974 (Medical Device)
- In re Zantac: MDL 2924 (Drug)
- In re Paraquat: MDL 3004 (Toxic Tort)

MDL/COMPLEX LITIGATION COMMITTEE/LEADERSHIP EXPERIENCE

- *In re Brown v. Whirlpool:* Firm initiated/litigated cancer cluster suit. Co-lead counsel.
- *In re Heparin:* Former firm served as liaison counsel and on PEC. Assisted in support of those roles. Personally acted as plaintiff's liaison for non-Baxter defendants.
- *In re Polyurethane Foam:* Worked on discovery committee.
- *In re DePuy ASR:* Former firm served as liaison counsel. Assisted in support of that role.
- *In re CS DIP, LLC:* Appointed to Official Unsecured Creditor's Committee. Responsible for directing coverage litigation, negotiation with debtors/carriers, settlement/classification structure, trust establishment and trust administration involving approx. 4K tort claimants.

COMMITMENT/RESOURCES

I appreciate the amount of time/resources that this litigation may require. I am willing and able to commit to supporting the litigation efforts of leadership. Our firm is also committed to this litigation and is able and willing to support my involvement as well as advance funding in support of common benefit litigation. Our firm is also willing to offer skilled associate attorneys in support of needed committee work.

On a personal note, I was raised in a small, rural, blue-collar, Ohio town like East Palestine and appreciate how "local" of a case this is and how much it matters to the people of East Palestine.



1133 Penn Avenue
5th Floor
Pittsburgh, PA 15222
T. (412) 322-9243
kelly@lcllp.com

Education

Duquesne University School of Law, J.D., 2009
summa cum laude
-Law Review
-Shalom Moot Court Award for Outstanding Trial Advocacy
-Louis L. Manderino Honor Society for Meritorious Service to the Trial Advocacy Program

Chatham University, B.A., Business Management, 2002
magna cum laude

Court Admissions

Pennsylvania, 2009
W.D. Pa., 2009
M.D. Pa., 2015
D. Colo., 2018
N.D. Ill., 2020
E.D. Mich., 2020
E.D. Pa. 2021
Fourth Circuit, 2016
Ninth Circuit, 2019
Third Circuit, 2020
Second Circuit, 2021
Seventh Circuit, 2021

KELLY K. IVERSON | PARTNER

Kelly Iverson prosecutes class and mass tort cases with a focus on data breach and privacy, consumer fraud, and products liability actions. Prior to joining Lynch Carpenter, Kelly was a shareholder at Denton's Cohen & Grigsby, P.C., where she represented plaintiffs in personal injury, insurance bad faith, and minority shareholder oppression actions, as well as defendants in complex commercial litigation.

Representative MDL and Consolidated Action Appointments

In February of 2022, Kelly was appointed by The Honorable Joy Flowers Conti as Co-Lead Counsel of *In re: Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation* (W.D. Pa.) (products liability class and mass tort MDL). Kelly was also Court appointed as Co-Lead Counsel in *In re: Erie Covid-19 Business Interruption Protection Ins. Litig.* (W.D. Pa.) (insurance coverage class MDL); Plaintiffs' Steering Committee in *In re Blackbaud, Inc. Customer Data Security Breach Litig.* (D.S.C.) (data breach class MDL); *In re Solara Medical Supplies Data Breach Litig.* (S.D. Cal.) (data breach consolidated class action); and as Liaison Counsel in *In re: Railway Industry Employee No-Poach Antitrust Litig.* (W.D. Pa.) (antitrust MDL). Kelly served on committees in *In Re: Marriott International, Inc., Customer Data Security Breach Litigation* (D. Md.) (MDL); *In re Equifax, Inc. Customer Data Security Breach Litigation* (N.D. Ga.) (MDL) and *First Choice Fed. Credit Union v. The Wendy's Co., et al* (W.D. Pa.).

Representative Trial Experience

Lead Trial Counsel, *Klepack v. O'Karma* (N.D. W.Va.) – Kelly served as lead trial counsel on behalf of the plaintiff in a medical malpractice Federal Tort Claims Act case against a federal employee-doctor. Kelly managed the case from start to finish, including discovery, expert witness discovery, successfully defending dispositive motions, through trial and to appeal. She received a verdict at trial in favor of her client for the maximum possible statutory recovery and ultimately settled the case on appeal.

Trial Counsel, *Coyne v. Tri-State* (Ohio Cty., W.Va.) – Kelly served as defense counsel for a corporation and its shareholders in a three-week long shareholder dispute jury trial. Kelly was instrumental in all aspects of the litigation, including discovery, working with expert witnesses, taking and defending depositions of expert witnesses, preparing and arguing dispositive motions to the court, trial preparation, and ultimately at trial. While the jury returned a verdict for Plaintiff, it was for a markedly reduced amount, and the clients were pleased with the result.

Publications

Sedona Conference Data Security & Privacy Litigation (WG11), Kelly serves on the drafting team implementing updates and revisions to the Commentary on Application of Attorney-Client Privilege and Work-Product Protection to Documents and Communications Generated in the Cybersecurity Context.

Class Actions: The Law of 50 States (Law Journal Press), Kelly Co-Authored Releases 49-51 of this class action primer, addressing topics such as attorneys' fees, typicality, adequacy, limited "issue" classes, and representative plaintiff service awards.

LYNCH CARPENTER

Pittsburgh • San Diego • Chicago
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OUR MISSION

Lynch Carpenter is a national law firm with a singular mission – to provide a voice to those who have been silenced by the disproportionate powers which too often exist in America. With lawyers based in Pittsburgh, San Diego, Los Angeles, Philadelphia, and Chicago, Lynch Carpenter has created an inclusive national community of like-minded legal talent to represent plaintiffs in complex litigation. Lynch Carpenter lawyers have developed strong collaborative working relationships with counsel throughout the nation and have been involved in numerous high-profile multidistrict litigation proceedings, frequently in leadership roles.

The Lynch Carpenter platform is self-made, without reliance upon the legacy of a long-established “repeat player” law firm, and is based upon the fundamental principle that input from a broad base of lawyers with diverse backgrounds, working together with mutual respect, will result in the strongest possible organization. At Lynch Carpenter, diversity is utilized, not tokenized. To this end, the firm strives to provide equal opportunities for promotion and leadership to its attorneys and supporting professionals. Fourteen of the 23 Lynch Carpenter attorneys have been appointed to leadership positions in multidistrict or otherwise consolidated litigation, or in class-action matters involving financial fraud (including securities fraud, derivative actions, and lending fraud), data breach, privacy, consumer fraud, breach of contract, labor and employment, antitrust, and civil rights, in federal and state courts throughout the country.

Lynch Carpenter represents a wide variety of clients, including individual consumers and employees, small businesses, non-profits, issue advocacy groups, and governmental entities. Over the past ten years, Lynch Carpenter lawyers emerged as national leaders in data breach and privacy litigation, and in that time have negotiated or contributed to class recoveries totaling more than \$250 million in that sector alone. Along the way, the Lynch Carpenter team has generated seminal legal authority in both trial and appellate courts. For example, in 2018, as a direct result of Lynch Carpenter’s tenacious appellate advocacy, the Pennsylvania Supreme Court became one of the first state high courts to recognize that a common-law duty of reasonable care applies to the collection and storage of sensitive electronically-stored data. This landmark opinion, *Dittman v. UPMC*, 196 A.3d 1036 (Pa. 2018), paved the way for data breach victims to bring viable negligence claims against companies whose inadequate security practices allow major breach incidents to happen.

In October 2020, *The Legal Intelligencer* named Lynch Carpenter (under its predecessor name) “Litigation Department of the Year” for general litigation in Pennsylvania. In 2021, the firm was named as a finalist for Litigation Department of the Year in the Pennsylvania region by *The American Lawyer*. Several of its partners co-author the current edition of *Class Actions: The Law of 50 States* published by Law Journal Press. Lynch Carpenter’s attorneys are recipients of numerous additional individual awards, as described in more detail in the individual biographies on the firm’s website.

Lynch Carpenter continues to grow and establish itself as a leader in representing plaintiffs in complex litigation throughout the country. The firm remains committed to developing its younger lawyers and providing them with opportunities for professional growth, both inside and outside of the firm. In leading major complex litigation, the firm draws strength from its decentralized management structure, which fosters collaboration within the firm and enables the assembly of internal litigation teams for each case. In this way, Lynch Carpenter epitomizes the synergistic benefits which result from a group of good lawyers working together to do good things.

REPRESENTATIVE AND NOTABLE CASES

PRIVACY & DATA BREACH LITIGATION

In re TikTok, Inc., Consumer Privacy Litig., No. 20-cv-4699 (MDL No. 2948) (N.D. Ill.). Judge Lee appointed Katrina Carroll as Co-lead Counsel in this multidistrict litigation alleging that one of the world's biggest social media platforms captured, collected, and transmitted personal data from TikTok users and their devices without their consent and/or knowledge, including private information and biometric information within the meaning of the Illinois Biometric Information Privacy Act. In August 2022, a settlement for \$92 million received final approval.

In re Equifax, Inc. Customer Data Security Breach Litig., MDL 2800 (N.D. Ga.). The Equifax data breach compromised the nation's entire credit reporting system. More than 400 lawsuits filed by consumers and financial institutions were consolidated in the MDL. Gary Lynch was appointed co-lead counsel for financial institution plaintiffs. After significant dispositive motions practice and initial rounds of discovery, the parties negotiated a settlement of the financial institution class action that provides up to \$7.75 million in cash benefits, plus additional injunctive relief. The court granted preliminary approval of the settlement in June 2020 and final approval in October 2020.

In re Blackbaud, Inc. Customer Data Breach Litig., MDL 2972 (D.S.C.). In 2020, data security company Blackbaud, Inc. was target for a ransomware attack. In the litigation that followed, brought by Blackbaud's customers, Kelly Iverson was appointed to the Plaintiffs' Steering Committee. On October 19, 2021, the Honorable J. Michelle Childs denied Blackbaud's motion to dismiss Plaintiffs' negligence and gross negligence claims.

In re Wawa, Inc. Data Security Litig., 2:19-cv-6019 (E.D. Pa.). Gary Lynch was appointed co-lead counsel for a putative class of financial institution plaintiffs in consolidated actions brought against Wawa, Inc. arising out of a 2019 payment card data breach involving the convenience store's point-of-sale systems. A consolidated amended complaint was filed in July 2020, and in 2021 the district court denied the defendant's motion to dismiss the primary claims. In March 2023, the parties submitted for preliminary approval of a settlement that would provide up to \$37. million in relief for the class.

Popa v. Harriet Carter Gifts, Inc., 52 F.4th 121 (3d Cir. 2022). *Popa v. Harriet Carter Gifts, Inc.*, 52 F.4th 121 (3d Cir. 2022) - Lynch Carpenter won reversal of a district court's summary judgment for defendants in a case regarding applicability of Pennsylvania's Wiretapping and Electronic Surveillance Control Act ("WESCA"), 18 PA. CONS. STAT. 5702 *et seq.* The Third Circuit rejected the defendants' attempt to establish a "direct party" exception to WESCA, which would have undermined the two-party consent requirement of the statute. The Third Circuit also confirmed that defendants bear the burden of proving a prior consent defense, and that the location of electronic interception of website communications under WESCA is at the point where software re-routes transmissions from a user's device, not where the Website Communications are ultimately received. As of March 2023, the remanded case remains in litigation in the Western District of Pennsylvania.

In re Marriott International Customer Data Security Breach Litigation, MDL No. 2879 (D. MD.). Lynch Carpenter was appointed to the Plaintiffs' Steering Committee in this multidistrict litigation related to the data breach involving Starwood guest information dating back to at least 2014. The MDL includes more than 100 cases and is in pretrial litigation. The District Court certified several bellwether classes in May 2022.

Opris v. Sincera Reproductive Medicine, 2:21-cv-3072 (E.D. Pa.). Lynch Carpenter serves as co-lead counsel in this data breach case involving the 2020 compromise of patients' personal identifiable information and protected health information from a reproductive health services provider. In May 2022, Judge Slomsky denied the majority of the defendant's motion to dismiss. A class settlement received preliminary approval in March 2023.

In re Anthem, Inc. Customer Data Security Breach Litig., No. 5:15-md-02617, MDL 2617 (N.D. Cal.). Lynch Carpenter attorneys represented customers of a national health insurer which experienced a data breach involving the personal information, including social security numbers, of up to an estimated 80 million customers. The case was consolidated and transferred to the Northern District of California in June 2015. Lynch Carpenter attorneys participated in discovery related to Highmark, the Pennsylvania-based member of the Blue Cross Blue Shield Association and a co-defendant in the MDL. The parties reached a settlement valued at \$117 million, which was approved by the Court.

In re Home Depot Customer Data Breach Litig., 1:14-md-02583, MDL 2583 (N.D. Ga.). In this multidistrict litigation, Lynch Carpenter attorneys represented financial institutions in litigation related to the major data breach at the retailer which continued for almost six months in 2014 and resulted in the compromise of approximately 56 million payment card accounts. Lynch Carpenter was appointed by Judge Thrash to be one of three lead counsel managing the financial institution track of the litigation. In September 2017, the Court granted final approval to a comprehensive class settlement that provides over \$27 million in relief to the financial institution class.

First Choice Federal Credit Union v. The Wendy's Company et al, 2:16-cv-0506, (W.D. Pa.). This class action arose out of a malware installed on the point-of-sale systems of Wendy's franchised restaurants for the purpose of capturing and ex-filtrating customer payment card data. Approximately 18 million payment cards were exposed. The United States District Court for the Western District of Pennsylvania consolidated several proposed class actions and appointed Lynch Carpenter as Co-lead Counsel on behalf of the plaintiff financial institutions. In November 2018, after three rounds of in-person mediation, Wendy's agreed to pay \$50 million into a non-reversionary fund and to adopt and/or maintain certain reasonable safeguards to manage its data security risks. When the settlement received final approval in November 2019, the Honorable Maureen P. Kelly noted Class Counsel's "national reputation," "significant experience in these types of class actions and in data breach litigation," and "high level of skill and efficiency." Judge Kelly further explained:

This case has gone on for three and a half years...This was a very involved case and everyone brought to the table an incredible wealth of knowledge, was always prepared, really was thorough and professional in everything that was provided to the Court. And as involved as this case was, if every case I had was as well organized and professionally presented as this case has been, my life would be much easier... The briefs I got in this case and any filings were just so well-done and detailed. And my law clerks and I have discussed that a number of times. I want to thank counsel for the way you have conducted yourselves and the way you've all presented this case.

Dittman et al v. UPMC d/b/a The University of Pittsburgh Medical Center and UPMC McKeesport, Allegheny Cty., Pa. No. GD-14-003285; 196 A.3d 1036 (Pa. 2018). Lynch Carpenter represented several employees of the health care group UPMC in a class action stemming from a breach of UPMC's personnel files. On November 21, 2018, the Supreme Court of Pennsylvania issued a

landmark decision, reversing two lower courts, regarding the viability of common law negligence claims in the wake of a data breach. The Court found that UPMC engaged in affirmative conduct by collecting and storing employee data, and that general principles of negligence support holding actors to “a duty to others to exercise the care of a reasonable man to protect [others] against an unreasonable risk of harm to them arising out of the act.” As to the economic loss doctrine, the Court agreed with Plaintiffs’ interpretation of Pennsylvania legal precedent on the issue, finding that the question of whether the economic loss doctrine applies necessarily turns on the “source of the duty alleged,” and, accordingly, a plaintiff may seek pecuniary damages under a negligence theory if the duty sought to be enforced arises independently of any contractual relationship between the parties. After remand to the trial court, additional motions practice, and initiating discovery, the parties reached a multimillion-dollar settlement that received final approval in December 2021.

Biscan v. Shields Health Care Group, Inc., 1:22-cv-10901-PBS (D. Mass.). Jude Saris appointed Elizabeth Pollock Avery as Interim Co-Lead Counsel, and Hannah Barnett as member of the Interim Executive Committee in this data breach case against a healthcare company involving patients from several states.

In re Target Corporation Customer Data Breach Litig., 0:14-md-02522, MDL 2522 (D. Minn.). This multidistrict litigation arose out of the massive data breach that occurred in late 2013. Judge Magnuson appointed Gary Lynch to the five-member Plaintiffs’ Executive Committee that managed the litigation on behalf of all Plaintiffs’ tracks (consumer, financial institution, and shareholder). A settlement agreement which provided \$10 million to affected individual customers was granted final approval in November 2015. A separate settlement providing approximately \$39 million in relief to plaintiff financial institutions was granted final approval in May 2016.

Greater Chautauqua Federal Credit Union et al v. Kmart Corporation et al, No. 15-cv-02228 (N.D. Ill.). In this consolidated data breach case in which financial institutions were seeking recovery for losses sustained as a result of a 2014 data breach at one of the nation’s largest discount retail chains, Judge Lee appointed Gary Lynch to the Plaintiffs’ Executive Committee, and Katrina Carroll to serve as Liaison Counsel. A settlement was reached and approved in June 2017.

In re Ashley Madison Customer Data Security Breach Litig., MDL No. 2669 (E.D. Mo.). In this well-publicized data breach case Lynch Carpenter attorneys represented individuals whose highly sensitive account information was leaked from a social media company. The case was consolidated and transferred to the Eastern District of Missouri in December 2015. Judge Ross appointed Gary Lynch and Katrina Carroll (while with her prior firm) to the Executive Committee. A class settlement for \$11.2 million was given final approval in November 2017.

In re Vizio, Inc. Consumer Privacy Litig., MDL No. 2693 (C.D. Cal.). This action was filed on behalf of individuals who purchased Vizio “Smart TVs,” which contained software that collected information about the users in a manner that allegedly violates numerous consumer protection statutes. The case was consolidated and transferred to the Central District of California in April 2016, and Lynch Carpenter was appointed to the Plaintiffs’ Steering Committee. The case was settled and received final approval in 2019, providing for a \$17 million common fund.

Veridian Credit Union v. Eddie Bauer LLC, 2:17-cv-356 (W.D. Wash.). Lynch Carpenter served as co-lead counsel on behalf of a class of financial institutions in this class action against Eddie Bauer arising out of payment card data breach of the retailer’s point-of-sale systems in 2016, which led to the

exposure of up to 1.4 million payment cards. After overcoming a motion to dismiss and engaging in substantial discovery, the parties negotiated a class action settlement, which was approved in 2019. The agreement made up to \$2.8 million available in direct cash relief to class members and provided for an addition \$7 million worth of injunctive relief and other benefits.

In Re: Solara Medical Supplies Data Breach Litigation, 19-cv-02284 (S.D. Cal.). In January 2020, Judge Marilyn Huff appointed Kelly Iverson to the Plaintiffs' Steering Committee in this data breach action that affected both the personally identifiable information as well as protected health information of Plaintiffs' and the classes. The case settled for a class settlement of \$9.76 million.

In re Community Health Systems, Inc., Customer Data Security Breach Litigation, 2:15-cv-00222, MDL 2595 (N.D. Ala.). Gary Lynch served as a member of the plaintiffs' steering committee in consolidated multidistrict litigation stemming from a 2014 data breach involving one of the nation's largest hospital chains. The breach affected over 200 hospitals and the sensitive personal information of approximately 4.5 million patients was compromised. The action settled on a class basis for up to \$3.1 million.

In re Arby's Restaurant Group, 1:17-mi-55555 (N.D. Ga.). In October 2016, computer hackers accessed Arby's inadequately protected point-of-sale system and installed malware that infected nearly 1,000 Arby's restaurant locations. Gary Lynch was appointed by Judge Totenberg as Chair of the Financial Institution Plaintiffs' Executive Committee. The case settled and received final approval in November 2020.

Vance v. International Business Machines Corp., 1:20-cv-577 (N.D. Ill.). Lynch Carpenter attorneys were appointed Co-lead Counsel in this class action claiming IBM violated Illinois's Biometric Information Privacy Act when it collected, obtained, disclosed, redisclosed, disseminated, and otherwise profited from Illinois residents' unique facial geometric measurements without providing notice or obtaining consent. In September 2020, Lynch Carpenter defeated nearly all of the arguments raised in IBM's motion to dismiss, allowing the case to proceed forward toward class certification.

In Re: Clearview AI, Inc., Consumer Privacy Litig., 1:21-cv-00135 (N.D. Ill.). Lynch Carpenter attorneys served as counsel in this multidistrict litigation on behalf of a proposed class of Illinois citizens alleging that Clearview, in violation of the Illinois Biometric Information Privacy Act, scraped over 3 billion facial images from the internet, scanned their biometrics, and built a searchable database allowing users to instantly identify an unknown individual with only a photograph. Clearview then gave access to these biometrics to hundreds of law enforcement agencies, private entities, and individuals.

Lewert v. PF Chang's China Bistro, Inc., No. 1:14-cv-04787 (N.D. Ill.): Katrina Carroll served as Court-appointed co-lead counsel representing P.F. Chang's customers who had their personal financial information compromised in a 2014 security breach. This matter was one of the first data breach cases on record. Ms. Carroll oversaw all of the appellate briefing in ultimately obtaining a landmark ruling in the Seventh Circuit on Article III standing, hailed by Law360 as one of the "top privacy cases" of 2016.

Salam v. Lifewatch, Inc., No. 1:13-cv-09305 (N.D. Ill.): In this hard-fought litigation, Lynch Carpenter partner Katrina Carroll is currently involved as court-appointed Co-lead Counsel on behalf of a certified class in this privacy matter brought under the Telephone Consumer Protection Act ("TCPA"). Ms. Carroll has been directly involved in all aspects of litigation, including discovery and motion practice which culminated in a total victory for plaintiffs in contested class certification.

CONSUMER PROTECTION/PRODUCTS LIABILITY

In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Liability Litig., MDL No. 3014 (W.D. Pa.). In February 2022, Kelly Iverson was appointed as one of four co-lead counsel from a pool of 75 applicants. The MDL includes over 300 actions involving allegations regarding the potentially harmful degradation of sound abatement foam on recalled continuous positive airway pressure (CPAP) machines and the manufacturers' conduct in marketing and ultimate recall of the machines. The actions are in the early pretrial stages.

In re Robinhood Outage Litig., No. 20-cv-1626 (N.D. Cal.). In July 2020, Jamisen Etzel was appointed to the executive committee overseeing consolidated actions brought by consumers who sustained losses when the trading application Robinhood suffered severe service outages during a period of intense market volatility. A class settlement was preliminarily approved in December 2022.

Morrow v. Ann Inc., 16-cv-3340 (S.D.N.Y.). Lynch Carpenter attorneys were co-class counsel in a case alleging deceptive pricing practices by a major national retail chain. After plaintiffs overcame a motion to dismiss, the case settled for \$6.1 million worth of class benefits. The settlement was approved in April 2018.

Luca v. Wyndham Hotel Group, LLC, 2:16-cv-746 (W.D. Pa.). Lynch Carpenter attorneys were co-lead counsel in a class action against the Wyndham hotel companies for violations of New Jersey consumer protection statutes. Plaintiffs alleged that Wyndham's websites deceptively masked the resort fees charged at certain hotels and forced patrons to agree to illegal terms and conditions. In 2017, plaintiffs defeated a motion to dismiss filed by two of the primary operating subsidiaries. A class settlement worth up to \$7.6 million was reached in 2019 and approved later that year.

Van v. LLR, Inc., 3:18-cv-0197 (D. Ak.); 962 F.3d 1160 (9th Cir. 2020). Lynch Carpenter partners Jamisen Etzel and Kelly Iverson won a significant consumer rights ruling from the United States Court of Appeals for the Ninth Circuit. The appeals court reversed a district court dismissal for lack of standing, and, in a published decision, held that the temporary loss of money is a sufficient "injury-in-fact" under Article III of the Constitution to confer standing on a consumer to file a federal lawsuit. In September 2021, the District of Alaska certified a class of consumers asserting claims under Alaska's Unfair Trade Practices and Consumer Protection Act. A 23(f) appeal is currently pending in the Ninth Circuit.

Mednick v. Precor, Inc., No. 14-cv-03624 (N.D. Ill.): Lynch Carpenter partner Katrina Carroll served as court-appointed Co-lead Counsel in this products liability matter concerning the heart rate monitoring feature on Precor fitness machines. Due to Ms. Carroll's efforts, the plaintiffs defeated a contested class certification motion and obtained class certification for a multi-state consumer class. Ms. Carroll was instrumental in negotiating a class settlement providing meaningful relief for class members shortly thereafter, for which the Court recently issued final approval.

In re Rust-Oleum Restore Marketing, Sales Practices and Prods. Liab. Litig. No. 1:15-cv-1364 (N.D. Ill.): In this sprawling products liability MDL relating to defective deck resurfacing products, Katrina Carroll was instrumental in negotiating a \$9.3 million settlement providing meaningful relief to consumers, which received final approval in March of 2017 by the Honorable Amy J. St. Eve of the United States District Court for the Northern District of Illinois, now a sitting Judge of the Court of Appeals for the Seventh Circuit.

FINANCIAL FRAUD, LENDING PRACTICES, AND SECURITIES

In re: FedLoan Student Loan Servicing Litigation – MDL No. 2833, (E.D. Pa.). Lynch Carpenter serves as court-appointed co-lead counsel on behalf of student loan borrowers and federal grant recipients in this multidistrict litigation. The claims relate to widespread and systemic failures on the part of a student loan servicer and the U.S. Department of Education to adequately service the programs and advise its participant. A consolidated complaint was filed in November 2019. As of January 2022, a motion to dismiss is fully briefed and currently awaiting resolution by the Court.

CitiMortgage SCRA Litigation, (S.D.N.Y.). Lynch Carpenter attorneys were tri-lead counsel in this class action against CitiMortgage on behalf of Sergeant Jorge Rodriguez in the Southern District of New York. This case alleges that CitiMortgage improperly foreclosed upon Mr. Rodriguez's home (and the homes of similarly situated individuals) while he was serving his country in Iraq, in violation of the Servicemembers Civil Relief Act. The case settled and received final approval in October 2015, securing a total recovery of \$38.2 million for members of our military service.

In re Community Bank of Northern Virginia and Guaranty National Bank of Tallahassee Secondary Mortgage Loan Litigation, (W.D. Pa./3d Cir.). Lynch Carpenter attorneys were co-lead class counsel in this national litigation on behalf of second mortgage borrowers under the Real Estate Settlement Procedures Act. The class was certified by the district court and affirmed by the Third Circuit, 795 F.3d 380 (2015). A class settlement was finalized in early 2017 and obtained a total recovery of \$24 million.

In re Tenet Healthcare Corp. Securities Litigation, 02-cv-8462 (C.D. Cal.). Prior to joining the firm, Katrina Carroll represented the State of New Jersey's Division of Investment in this securities class action against Tenet Healthcare and its outside auditor, KPMG, related to false and misleading public statements those entities made between 2000 and 2002 about Tenet's financial health. Katrina played a large role in drafting motions *in limine* briefing issues regarding the admissibility of plaintiff's expert witness report. Tenet settled in 2006 for \$215 million, and KPMG settled in 2008 for \$65 million.

In re Motorola Securities Litig., 03-cv-287 (N.D. Ill.). Katrina Carroll represented the State of New Jersey's Division of Investment in this securities class action against Motorola, stemming from misrepresentations made by the company regarding a \$2 billion loan it made to a Turkish entity that was not repaid. The case settled a few days before trial for \$190 million.

Figueroa v. Capital One, 18-cv-692 (S.D. Cal.). Todd Carpenter and Eddie Kim served as Class Counsel in a class action challenging the unlawful assessment of multiple ATM fees in contravention of the customer account agreement, which resulted in a \$13 million settlement.

Bingham v. Acorns Grow, 30-2019-0150842 (Cal. Sup. Ct. Orange Cnty.). Eddie Kim served as Class Counsel in a class action on behalf of customers of a financial mobile app that automatically transferred "spare change" from each purchase using debit cards issued by customers' banks into an Acorns Grow investment account. This action challenged the app's failure to prevent overdrafts of customers' checking accounts as a result of the automated transfers and the resultant assessment of overdraft fees. A \$2.5 million settlement is pending court approval.

Schertzer v. Bank of America, 19-cv-264 (S.D. Cal.). Lynch Carpenter attorneys represent bank customers who were assessed out-of-network ATM fees for balance inquiries transpiring from

deceptive ATM prompts utilized by independent ATM operators Cardtronics and FCTI. Plaintiffs prevailed on challenges to the pleadings and a ruling on the motion for class certification is pending.

COVID-19 CLOSURES LITIGATION

Tuition & Fee Refund Litigation, various. Lynch Carpenter attorneys represents numerous college students who paid for in-person learning, but were forced to leave campus and move to remote learning in the wake of the Covid-19 pandemic. Many cases continue to litigate. However, a number of class settlements have been reached that have provided millions of dollars of tuition and fee refunds to college students around the country.

WAGE AND HOUR & EMPLOYMENT DISCRIMINATION LITIGATION

Genesis Healthcare v. Symczyk (U.S. Supreme Court). Gary Lynch served as Counsel of Record before the United States Supreme Court in an appeal addressing the application of mootness principles in a putative collective action filed under Section 216(b) of the Fair Labor Standards Act. When defendant served the plaintiff with a Rule 68 offer of judgment for “make whole” relief, the district court dismissed the case as moot. Gary Lynch successfully argued the appeal in the United States Court of Appeals for the Third Circuit, which held that the FLSA collective action did not become moot upon the plaintiff’s receipt of a Rule 68 offer of judgment for full satisfaction of her individual claim. The Supreme Court reversed in a 5-4 opinion, with Justice Kagan writing a strong dissent on behalf of our client—a position which was subsequently adopted by the majority of the Court in *Campbell-Ewald Co. v. Gomez*, 577 U.S. 153 (2016). Plaintiff’s position before the Supreme Court was supported by the United States as Amicus Curiae.

Verma v. 3001 Castor Inc., (E.D. Pa.). As co-class counsel, Lynch Carpenter attorneys won a \$4.59 million jury verdict in 2018 for misclassified workers at a Philadelphia nightclub. The claims were brought under the FLSA and Pennsylvania Minimum Wage Act. The trial verdict was fully affirmed by the Third Circuit in August 2019.

Copley v. Evolution Well Services, LLC, 2:20-cv-01442 (W.D. Pa.). In February 2022, Lynch Carpenter obtained collective certification under the FLSA of several hundred “hitch employees.” These employees spent hours per week travelling to remote job sites, time for which they were unpaid. On February 10, 2023, Judge Wiegand preliminarily approved a \$2.55 million dollar settlement for the FLSA collective, as well as Pennsylvania and Ohio state classes.

Wintjen v. Denny's, Inc. et al., 2:19-cv-00069 (W.D.Pa). On November 18, 2021, Judge Wiegand of the Western District of Pennsylvania granted class and conditional certification and appointed Lynch Carpenter LLP as class counsel. The class encompasses all tipped employees within the Commonwealth of Pennsylvania and involves Denny's failure to comply with the tip credit notification requirements as well as the 80/20 rule regarding sidework.

ANTITRUST

In Re Railway Industry Employee No-Poach Antitrust Litigation, MDL 2850, (W.D. Pa.), Chief Judge Joy Flowers Conti appointed Lynch Carpenter partner Kelly K. Iverson as Plaintiffs' Liaison Counsel on behalf of the class of employees who alleged the defendants and their co-conspirators entered into unlawful agreements to reduce and eliminate competition among them for employees and to suppress the compensation of those employees. The two defendants agreed to class settlements worth a combined \$48.95 million, and final approval was granted in August 2020.

In Re Blue Cross Blue Shield Antitrust Litigation, MDL No. 2406, (N.D. Ala.). Lynch Carpenter attorneys represent healthcare subscriber plaintiffs in four states in this nationwide class action challenging the anti-competitive practices of Blue Cross/Blue Shield's nationwide network of local insurers who do not compete with each other based on geographic boundaries. A \$2.7 billion settlement received preliminary approval in early 2021.

CIVIL RIGHTS

ADA (Americans with Disabilities Act) Accessibility Litigation. Lynch Carpenter is currently counsel for plaintiffs in a substantial number of putative class actions filed on behalf of individuals with disabilities to enforce the ADA's accessibility requirements. Over the last ten years, Lynch Carpenter attorneys have represented individuals with visual and mobility disabilities in seeking improved access to physical locations, ATMs, Point of Sale devices, and websites.

DOUGLAS J. OLCOTT

EDGAR SNYDER & ASSOCIATES LLC

Attorney Douglas Olcott started his career as a defense attorney representing insurance companies and businesses. This experience gives him valuable insight into how insurance companies operate and allows him to anticipate how best to handle his clients' cases.

After 10 years on the defense side, Attorney Olcott switched to representing injured plaintiffs, which has been his passion for the past 20 years. He explains, "I switched to plaintiff's personal injury because I wanted to help people try to level the playing field. While working for insurance companies, I saw first-hand how injured plaintiffs weren't treated as human beings, but rather as a commodity."

Attorney Olcott is a member of the Multi-Million Dollar Advocates Forum, which is for attorneys who have achieved million and multi-million-dollar verdicts and settlements. Less than 1% of United States lawyers are members. He has also been selected to the Pennsylvania Super Lawyers list since 2012.

Licensing and Education

Attorney Olcott is licensed to practice in the following states:

- New Jersey (1990)
- Pennsylvania (2007)
- Ohio (2020)
- West Virginia (2019)

He attended Montclair State University where he graduated cum laude and Seton Hall University School of Law, where he graduated magna cum laude. While in law school, Attorney Olcott was a member of the Seton Hall Law Review and served as the Articles Editor.

Professional Memberships

- Multi-Million Dollar Advocates Forum
- Selected to Pennsylvania Super Lawyers every year since 2012
- Certified Civil Trial Attorney
- American Bar Association
- Pennsylvania Bar Association
- Academy of Truck Accident Attorneys (ATAA)

Verdicts & Settlements

Attorney Olcott has litigated hundreds of cases and was certified by the Supreme Court of New Jersey as a Civil Trial attorney. He has tried dozens of cases to verdict.

Prior Class Action Involvement

Attorney Olcott has previously represented clients infected with hepatitis C at hospitals in multiple class action lawsuits. The first case, which involved a traveling nurse who infected patients across several states, resulted in a 39-year prison sentence for the defendant. In the second, a nurse who exposed thousands of patients to the potentially fatal disease plead guilty to tampering with a consumer product and fraudulently obtaining a controlled substance.

Resume of Daniel Aaron Rihn, Esquire

Robert Peirce & Associates, P.C.
707 Grant Street
Suite 2500
Pittsburgh, PA 15219
Telephone: 412-281-7229
Facsimile: 412-281-4229
Email: arihn@peircelaw.com
Website: www.peircelaw.com

Education:

University of Richmond, The T.C. Williams School of Law, Richmond, Virginia
J.D. *cum laude* – 2000

Grove City College, Grove City, Pennsylvania
B.A. – 1997, Major: Literature

Bar Admissions:

State Courts:

Pennsylvania, 2000
West Virginia, 2001

Federal Courts:

U.S. District Court Western District of Pennsylvania, 2000
U.S. District Court Eastern District of Pennsylvania, 2001
U.S. District Court Southern District of West Virginia, 2001
U.S. District Court Northern District of West Virginia, 2004
U.S. Court of Appeals 3rd Circuit, 2005
U.S. Supreme Court, 2006
U.S. District Court Middle District of Pennsylvania, 2014
U.S. Court of Appeals 6th Circuit, 2017
United States Court of Claims, 2021
U.S. Bankruptcy Court Eastern District of Pennsylvania
U.S. Bankruptcy Court Western District of Pennsylvania
U.S. Court of Appeals 9th Circuit

Representative Cases:

Alt v. Shirey, No. 11-cv-0468, 2012 WL 726593 (W.D.Pa. 2012)
Tristani v. Richman, No. 06-cv-0694, 2009 WL 8179518 (W.D.Pa. 2009)
Delandro v. County of Allegheny, No. 06-cv-0927, 2007 WL 81061 (W.D.Pa. 2007)

DeFrancesco v. Union Railroad Company, ALJ No. 2009-FRS-009 (Sept. 30, 2015) (D & O)
In re: Prempro, 230 F.R.D. 555 (ED. Ark 2005)
Slivo v. City of Pittsburgh Municipal Pension Fund, 882 A.2d 24 (Pa.Cmmwlth. 2005)
Sexton v. Grieco, 613 S.E.2d 81 (W. Va. 2005)
Ashbury-Castro-GlaxoSmithKline, 352 F.Supp. 729 (N. D. W. Va. 2005)
Virden v. Altria Group, Inc., 304 F.Supp.2d. 832 (N. D. W. Va. 2004)
In re West Virginia Asbestos Legislation, 592 S.E.2d 818 (W. Va. 2003)
Swierkowski v. Consolidated Rail Corp., 168 F.Supp.2d 389 (ED. Pa. 2001)
Grammer v. Kane, 570 F.3d 520 (3d Cir. 2009)

Honors and Awards:

Super Lawyers Rising Star, 2011-2014

Super Lawyer, 2022

Top 40 Lawyers Under 40, National Trial Lawyers, 2012-2014

Top 100 Trial Lawyers, National Trail Lawyers, 2015 - 2022

Top 10 Pennsylvania Civil Rights Attorney, National Trail Lawyers, 2023

Mr. Rihn has been litigating complex consumer and medical class actions for over twenty years. He has been appointed as co-liaison counsel in the In re Philips CPAP MDL, 2:21-md-01230 (W.D.Pa.), by the Honorable Joy Flowers Conti. Additionally, he was appointed to the Plaintiffs' Class Action Steering Committee in the Federal Prempro MDL, MDL Docket No. 4:03CV1507BRW. In fact, Mr. Rihn's West Virginia consumer protection class action was one of only two class cases that survived the MDL and got remanded back to its home state (the other being the California case), which lead to a substantial settlement for hundreds of individual plaintiffs. He has been lead or co-lead counsel on numerous successful certified class and collective actions in the Western District of Pennsylvania, including Delandro v. Allegheny County (2:06-CV-927)(certified and settled), Bland v. Calfrac (2:12-cv-1407) (certified and settled); Decker v. U.S. Wells Services (2:16-cv-00755) (certified and settled); Vigil v. KLX Energy, (2:15-cv-01200)(settled) and Meyer v. CUNA (2:03-cv-602)(certified as to common issues, settled individually). He also has served as counsel in several other FLSA collective actions in other Districts, including Nelson v. Sabre Energy, (Civil Action No.: 1:15-CV-0314-

BKS)(N.D.N.Y.)(certified and settled), Crigler v. Stingray Pressure Pumping (2:15-cv-2324) (S.D.Oh.)(certified and settled); Allen v. Waste Pro, (Civil Action No.: 8:17-cv-02254-T-36CPT)(M.D.Fla.)(Pending). Mr. Rihn has also spent decades litigating complex toxic exposure actions against railroad defendants, including Norfolk Southern, under the FELA, and has handled a variety of complex FRSA preemption issues at both the trial and appellate court levels.

ROBERT PEIRCE & ASSOCIATES, P.C.

A Western Pennsylvania Leader in Mass Torts, Class Action, and Pharmaceutical Litigation

Robert Peirce & Associates, P.C. was founded in 1981 by Robert N. Peirce, Jr. From its outset, the firm's founding principle has been to focus on providing exceptional service to its most important assets – the firm's clients. In addition to serving its individual clients, the firm has focused on mass tort litigation. Using innovative litigation and settlement strategies, while at the same time trying cases against various defendants, the firm was able to successfully resolve through settlement or verdict over 10,000 cases against railroads. The firm also pursued claims against manufacturers, suppliers and distributors of asbestos products on behalf of steelworkers and railroaders and has resolved over 40,000 such claims.

The firm has effectively litigated numerous class actions against oil and gas companies, insurance companies, the Pennsylvania Department of Public Welfare, correctional facilities and others. Capitalizing on the mass tort and complex litigation, the firm has become involved in pharmaceutical litigation. The firm has represented and continues to represent clients injured by Vioxx, Actos, Cook IVC filters, hernia mesh, proton pump inhibitors (PPI), defective replacement knees and hips, testosterone replacement drugs, Onglyza, Kombiglyze and many others.

With offices in Pittsburgh, Pennsylvania, Robert Peirce & Associates, P.C., currently employs 17 attorneys, whose combined experience totals well over 200 years. These attorneys work every day to fulfill the firm's founding principle – to provide exceptional service to the firm's clients. The attorneys of Robert Peirce & Associates, P.C. continue to focus on mass torts, pharmaceutical litigation and class based litigation and also handle complex personal injury cases on a daily basis.

Robert Peirce & Associates, P.C.
707 Grant Street
Suite 125
Pittsburgh PA 15219
1-412-281-7229
1-800-543-9859 (toll free)
www.peircelaw.com



1818 Market Street | Suite 3600 | Philadelphia, PA 19103

info@bm.net

bergermontague.com

800-424-6690

About Berger Montague

Berger Montague is a full-spectrum class action and complex civil litigation firm, with nationally known attorneys highly sought after for their legal skills. The firm has been recognized by courts throughout the country for its ability and experience in handling major complex litigation, particularly in the fields of antitrust, securities, mass torts, civil and human rights, whistleblower cases, employment, and consumer litigation. In numerous precedent-setting cases, the firm has played a principal or lead role.

The *National Law Journal* routinely selected Berger Montague for its “Hot List” of top plaintiffs-oriented litigation firms in the United States. The select group of law firms recognized each year had done “exemplary, cutting-edge work on the plaintiffs’ side.” The *National Law Journal* ended its “Hot List” award in 2017 and replaced it with “Elite Trial Lawyers,” which Berger Montague has won from 2018-2021. The firm has also achieved the highest possible rating by its peers and opponents as reported in *Martindale-Hubbell* and was ranked as a 2021 “Best Law Firm” by *U.S. News - Best Lawyers*.

Currently, the firm consists of 71 lawyers; 15 paralegals; and an experienced support staff. Few firms in the United States have our breadth of practice and match our successful track record in such a broad array of complex litigation.

History of the Firm

Berger Montague was founded in 1970 by the late David Berger to concentrate on the representation of plaintiffs in a series of antitrust class actions. David Berger helped pioneer the use of class actions in antitrust litigation and was instrumental in extending the use of the class action procedure to other litigation areas, including securities, employment discrimination, civil and human rights, and mass torts. The firm’s complement of nationally recognized lawyers has represented both plaintiffs and defendants in these and other areas and has recovered billions of dollars for its clients. In complex litigation, particularly in areas of class action litigation, Berger Montague has established new law and forged the path for recovery.

The firm has been involved in a series of notable cases, some of them among the most important in the last 50 years of civil litigation. For example, the firm was one of the principal counsel for

plaintiffs in the *Drexel Burnham Lambert/Michael Milken* securities and bankruptcy litigation. Claimants in these cases recovered approximately \$2 billion in the aftermath of the collapse of the junk bond market and the bankruptcy of *Drexel* in the late 1980's. The firm was also among the principal trial counsel in the *Exxon Valdez Oil Spill* litigation in Anchorage, Alaska, a trial resulting in a record jury award of \$5 billion against Exxon, later reduced by the U.S. Supreme Court to \$507.5 million. Berger Montague was lead counsel in the *School Asbestos Litigation*, in which a national class of secondary and elementary schools recovered in excess of \$200 million to defray the costs of asbestos abatement. The case was the first mass tort property damage class action certified on a national basis. Berger Montague was also lead class counsel and lead trial counsel in the *Cook v. Rockwell International Corporation* litigation arising out of a serious incident at the Rocky Flats nuclear weapons facility in Colorado.

In the human rights area, the firm, through its membership on the executive committee in the *Holocaust Victim Assets Litigation*, helped to achieve a \$1.25 billion settlement with the largest Swiss banks on behalf of victims of Nazi aggression whose deposits were not returned after the Second World War. The firm also played an instrumental role in bringing about a \$4.37 billion settlement with German industry and government for the use of slave and forced labor during the Holocaust.

Diversity, Equity and Inclusion Initiatives

Berger Montague not only supports the idea of its Diversity, Equity and Inclusion (“DEI”) initiatives, it is a part of the DNA and fabric of the firm—internally amongst the Berger Montague family and in the way we practice law with co-counsel, opposing counsel, the courts, and with our clients. Through our DEI initiatives, Berger Montague actively works to increase diversity at all levels of our firm and to ensure that professionals of all races, religions, national origins, gender identities, ethnicities, sexual orientations, and physical abilities feel supported and respected in the workplace.

Berger Montague has a DEI Task Force which has enacted a broad range of diversity and inclusion projects, including successful efforts to hire and retain attorneys and non-attorneys from diverse backgrounds and to foster an inclusive work environment, including through firmwide trainings on implicit bias issues that may impact the workplace.

Additionally, at Berger Montague women lead. Women comprise over 30% of Berger Montague’s shareholders, well above the national average as reported by the National Association of Women Lawyers. Moreover, women at the firm are encouraged and have taken advantage of professional development support to bolster their trajectories into key participation and leadership roles, both within and outside the firm, including mentoring, networking, and educational opportunities for women across all career levels. As a result of these intentional policies and initiatives, women attorneys at Berger Montague are managing departments, running offices, overseeing major administrative programs, generating new business, serving as first chair in trials, handling large matters, and holding numerous other leadership positions firmwide.

Berger Montague's commitment to DEI activities extends beyond our firm. For example, DEI Task Force members are involved in numerous community and professional activities outside of the firm. Representative activities include membership in and/or board or leadership positions with the Hispanic Bar Association, the Barristers' Association of Philadelphia, the Philadelphia Public School Board of Education, Court Appointed Special Advocates (CASA) of Philadelphia, Philadelphia Bar Association's Business Law Section's Antitrust Committee, Community Legal Services of Philadelphia, the Greater Philadelphia Chapter of the Pennsylvania ACLU, AccessMatters, After School Activities Partnerships, and Leadership Council on Legal Diversity. As such, Berger Montague's commitment to DEI has created an atmosphere in which the attorneys can share their gifts with the legal and greater communities from which they come.

Commitment to *Pro Bono*

Berger Montague attorneys commit their most valuable resource, their time, to charities, nonprofit organizations, and *pro bono* legal work. For over 50 years, Berger Montague has encouraged its attorneys to support charitable causes and volunteer in the community. Our lawyers understand that participating in *pro bono* representation is an essential component of their professional and ethical responsibilities.

Berger Montague is strongly committed to numerous charitable causes. Over his lengthy career, David Berger, the firm's founding partner, was prominent in a great many philanthropic and charitable enterprises, including serving as Honorary Chairman of the American Heart Association; a Trustee of the American Cancer Society; and a member of the Board of Directors of the American Red Cross. This tradition continues to the present.

Community Legal Services of Philadelphia, an organization that provides free legal advice and representation to low-income residents of Philadelphia, honored Berger Montague with its 2021 Champion of Justice Award for the firm's work leading a case against the IRS that succeeded in getting unemployed people their rightful benefits during the COVID-19 pandemic.

In prior years, Berger Montague received the Chancellor's Award presented by the Philadelphia Volunteers for the Indigent Program ("VIP"), which provides crucial legal services to more than 1,000 low-income Philadelphia residents each year. VIP relies on volunteer attorneys to provide *pro bono* representation for families and individuals. In 2009 and 2010, Berger Montague also received an award for our volunteer work with the VIP Mortgage Foreclosure Program.

Today, Berger Montague attorneys engage in *pro bono* work for many organizations, including:

- Public Interest Law Center of Philadelphia ("PILCOP")
- Community Legal Services of Philadelphia ("CLS")
- Philadelphia Legal Assistance
- Education Law Center
- Legal Clinic for the Disabled
- Support Center for Child Advocates
- Veterans Pro Bono Consortium

- AIDS Law Project of Philadelphia
- Center for Literacy
- National Liberty Museum
- Philadelphia Volunteers for the Indigent Program
- Philadelphia Mortgage Foreclosure Program

We are proud of our written *pro bono* policy that encourages and strongly supports our attorneys to get involved in this important and rewarding work. Many attorneys at Berger Montague have been named to the First District of Pennsylvania's Pro Bono Honor Roll.

Berger Montague also makes annual contributions to the Philadelphia Bar Foundation, an umbrella charitable organization dedicated to promoting access to justice for all people in the community, particularly those struggling with poverty, abuse, and discrimination.

The firm also has held numerous clothing drives, toy drives, food drives, and blood drives. Through these efforts, Berger Montague professional and support staff have donated thousands of items of clothing, toys, and food to local charities including the Salvation Army, Toys for Tots, and Philabundance, a local food bank. Blood donations are made to the American Red Cross. Berger Montague attorneys also volunteer on an annual basis at MANNA, which prepares and delivers nourishing meals to those suffering with serious illnesses.

Environment & Public Health

Berger Montague lawyers are trailblazers in the fields of environmental class action litigation and mass torts. Our attorneys have earned their reputation in the fields of environmental litigation and mass torts by successfully prosecuting some of the largest, most well-known cases of our time. Our Environment & Public Health Group also prosecutes significant claims for personal injury, commercial losses, property damage, and environmental response costs. In 2016, Berger Montague was named an Elite Trial Lawyer Finalist in special litigation (environmental) by *The National Law Journal*.

- **Cook v. Rockwell International Corporation:** In February 2006, the firm won a \$554 million jury verdict on behalf of thousands of property owners whose homes were exposed to plutonium from the former Rocky Flats nuclear weapons site northwest of Denver, Colorado. Judgment in the case was entered by the court in June 2008 which, with interest, totaled \$926 million. Recognizing this tremendous achievement, the Public Justice Foundation bestowed its prestigious Trial Lawyer of the Year Award for 2009 on Merrill G. Davidoff, David F. Sorensen, and the entire trial team for their "long and hard-fought" victory against "formidable corporate and government defendants." (No. 90-cv-00181-JLK (D. Colo.)). The jury verdict in that case was vacated on appeal in 2010, but on a second trip to the Tenth Circuit, Plaintiffs secured a victory in 2015, with the case then being sent back to the district court. A \$375 million settlement was reached in May 2016, and final approval by the district court was obtained in April 2017.

- ***In re Exxon Valdez Oil Spill Litigation:*** On September 16, 1994, a jury trial of several months duration resulted in a record punitive damages award of \$5 billion against the Exxon defendants as a consequence of one of the largest oil spills in U.S. history. The award was reduced to \$507.5 million pursuant to a Supreme Court decision. David Berger was co-chair of the plaintiffs' discovery committee (appointed by both the federal and state courts). Harold Berger served as a member of the organizing case management committee. H. Laddie Montague was specifically appointed by the federal court as one of the four designated trial counsel. Both Mr. Montague and Peter Kahana shared (with the entire trial team) the 1995 "Trial Lawyer of the Year Award" given by the Trial Lawyers for Public Justice. (No. A89-0095-CVCHRH (D. Alaska)).
- ***Drayton v. Pilgrim's Pride Corp.:*** The firm served as counsel in a consolidation of wrongful death and other catastrophic injury cases brought against two manufacturers of turkey products, arising out of a 2002 outbreak of Listeria Monocytogenes in the Northeastern United States, which resulted in the recall of over 32 million pounds of turkey – the second largest meat recall in U.S. history at that time. A significant opinion issued in the case is *Drayton v. Pilgrim's Pride Corp.*, 472 F. Supp. 2d 638 (E.D. Pa. 2006) (denying the defendants' motions for summary judgment and applying the alternative liability doctrine). All of the cases settled on confidential terms in 2006. (No. 03-2334 (E.D. Pa.)).
- ***In re Three Mile Island Litigation:*** As lead/liaison counsel, the firm successfully litigated the case and reached a settlement in 1981 of \$25 million in favor of individuals, corporations and other entities suffering property damage as a result of the nuclear incident involved. (C.A. No. 79-0432 (M.D. Pa.)).

Judicial Praise for Berger Montague Attorneys

Berger Montague's record of successful prosecution of class actions and other complex litigation has been recognized and commended by judges and arbitrators across the country. Some remarks on the skill, efficiency, and expertise of the firm's attorneys are excerpted below.

Antitrust Cases

From **Judge Lorna G. Schofield**, of the U.S. District Court for the Southern District of New York:

"I'm not sure I've ever seen a case without a single objection or opt-out, so congratulations on that."

Transcript of the November 19, 2020 Hearing in ***Contant, et al. v. Bank of America Corp., et al.***, No. 1:17-cv-03139 (S.D.N.Y.).

From **Judge William E. Smith**, of the U.S. District Court for the District of Rhode Island:

"The degree to which you all litigated the case is – you know, I can't imagine attorneys litigating a case more rigorously than you all did in this case. It seems like every conceivable, legitimate, substantive dispute that could have been fought over was fought over to the max. So you, both sides, I think litigated the case as vigorously as any group of attorneys could. The level of representation of all parties in terms of the sophistication of counsel was, in my view, of the highest levels. I can't imagine a case in which there was really a higher quality of representation across the board than this one."

Transcript of the August 27, 2020 Hearing in *In re Loestrin 24 Fe Antitrust Litigation*, No. 13-md-02472 (D.R.I.).

From **Judge Margo K. Brodie**, of the U.S. District Court for the Eastern District of New York:

"Class counsel has without question done a tremendous job in litigating this case. They represent some of the best plaintiff-side antitrust groups in the country, and the size and skill of the defense they litigated against cannot be overstated. They have also demonstrated the utmost professionalism despite the demands of the extreme perseverance that this case has required..."

In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation, No. 1:05-md-01720 (E.D.N.Y. 2019) (Mem. & Order).

From **Judge Brian M. Cogan**, of the U.S. District Court of the Eastern District of New York:

"This is a substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it was done because we had really good Plaintiffs' lawyers in this case who were running it."

Transcript of the June 24, 2019 Fairness Hearing in *In re Dental Supplies Antitrust Litigation*, No. 16-cv-696 (E.D.N.Y.).

From **Judge Michael M. Bayson**, of the U.S. District Court of the Eastern District of Pennsylvania:

"[C]ounsel...for direct action plaintiffs have done an outstanding job here with representing the class, and I thought your briefing was always very on point. I thought the presentation of the very contentious issues on the class action motion was very well done, it was very well briefed, it was well argued."

Transcript of the June 28, 2018 Hearing in *In re Domestic Drywall Antitrust Litigation*, No. MD-13-2437 at 11:6-11.

From **Judge Madeline Cox Arleo**, of the U.S. District Court for the District of New Jersey praising the efforts of all counsel:

"I just want to thank you for an outstanding presentation. I don't say that lightly . . . it's not lost on me at all when lawyers come very, very prepared. And really, your clients should be very proud to have such fine lawyering. I don't see lawyering like this every day in the federal courts, and I am very grateful. And I appreciate the time and the effort you put in, not only to the merits, but the respect you've shown for each other, the respect you've shown for the Court, the staff, and the time constraints. And as I tell my law clerks all the time, good lawyers don't fight, good lawyers advocate. And I really appreciate that more than I can express."

Transcript of the September 9 to 11, 2015 Daubert Hearing in ***Castro v. Sanofi Pasteur***, No. 11-cv-07178 (D.N.J.) at 658:14-659:4.

From **Judge William H. Pauley, III**, of the U.S. District Court of the Southern District of New York:

"Class Counsel did their work on their own with enormous attention to detail and unflagging devotion to the cause. Many of the issues in this litigation . . . were unique and issues of first impression."

* * *

"Class Counsel provided extraordinarily high-quality representation. This case raised a number of unique and complex legal issues The law firms of Berger Montague and Coughlin Stoia were indefatigable. They represented the Class with a high degree of professionalism, and vigorously litigated every issue against some of the ablest lawyers in the antitrust defense bar."

In re Currency Conversion Fee Antitrust Litigation, 263 F.R.D. 110, 129 (2009).

From **Judge Faith S. Hochberg**, of the United States District court for the District of New Jersey:

"[W]e sitting here don't always get to see such fine lawyering, and it's really wonderful for me both to have tough issues and smart lawyers ... I want to congratulate all of you for the really hard work you put into this, the way you presented the issues, ... On behalf of the entire federal judiciary I want to thank you for the kind of lawyering we wish everybody would do."

In re Remeron Antitrust Litig., Civ. No. 02-2007 (Nov. 2, 2005).

From U.S. District **Judge Jan DuBois**, of the U.S. District Court of the Eastern District of Pennsylvania:

"[T]he size of the settlements in absolute terms and expressed as a percentage of total damages evidence a high level of skill by petitioners ... The Court has repeatedly stated that the lawyering in the case at every stage was superb, and does so again."

In re Linerboard Antitrust Litig., 2004 WL 1221350, at *5-*6 (E.D. Pa. 2004).

From **Judge Nancy G. Edmunds**, of the U.S. District Court of the Eastern District of Michigan:

"[T]his represents an excellent settlement for the Class and reflects the outstanding effort on the part of highly experienced, skilled, and hard working Class Counsel....[T]heir efforts were not only successful, but were highly organized and efficient in addressing numerous complex issues raised in this litigation[.]"

In re Cardizem CD Antitrust Litig., MDL No. 1278 (E.D. Mich., Nov. 26, 2002).

From **Judge Charles P. Kocoras**, of the U.S. District Court for the Northern District of Illinois:

"The stakes were high here, with the result that most matters of consequence were contested. There were numerous trips to the courthouse, and the path to the trial court and the Court of Appeals frequently traveled. The efforts of counsel for the class has [sic] produced a substantial recovery, and it is represented that the cash settlement alone is the second largest in the history of class action litigation. . . . There is no question that the results achieved by class counsel were extraordinary [.]"

Regarding the work of Berger Montague in achieving more than \$700 million in settlements with some of the defendants in *In Re Brand Name Prescription Drugs Antitrust Litigation*, 2000 U.S. Dist. LEXIS 1734, at *3-*6 (N.D. Ill. Feb. 9, 2000).

From **Judge Peter J. Messitte**, of the U.S. District Court for the District of Maryland:

"The experience and ability of the attorneys I have mentioned earlier, in my view in reviewing the documents, which I have no reason to doubt, the plaintiffs' counsel are at the top of the profession in this regard and certainly have used their expertise to craft an extremely favorable settlement for their clients, and to that extent they deserve to be rewarded."

Settlement Approval Hearing, Oct. 28, 1994, in *Spawd, Inc. and General Generics v. Bolar Pharmaceutical Co., Inc.*, CA No. PJM-92-3624 (D. Md.).

From **Judge Donald W. Van Artsdalen**, of the U.S. District Court for the Eastern District of Pennsylvania:

"As to the quality of the work performed, although that would normally be reflected in the not immodest hourly rates of all attorneys, for which one would expect to obtain excellent quality work at all times, the results of the settlements speak for themselves. Despite the

extreme uncertainties of trial, plaintiffs' counsel were able to negotiate a cash settlement of a not insubstantial sum, and in addition, by way of equitable relief, substantial concessions by the defendants which, subject to various condition, will afford the right, at least, to lessee-dealers to obtain gasoline supply product from major oil companies and suppliers other than from their respective lessors. The additional benefits obtained for the classes by way of equitable relief would, in and of itself, justify some upward adjustment of the lodestar figure."

Bogosian v. Gulf Oil Corp., 621 F. Supp. 27, 31 (E.D. Pa. 1985).

From **Judge Krupansky**, who had been elevated to the Sixth Circuit Court of Appeals:

"Finally, the court unhesitatingly concludes that the quality of the representation rendered by counsel was uniformly high. The attorneys involved in this litigation are extremely experienced and skilled in their prosecution of antitrust litigation and other complex actions. Their services have been rendered in an efficient and expeditious manner, but have nevertheless been productive of highly favorable result."

In re Art Materials Antitrust Litigation, 1984 CCH Trade Cases ¶65,815 (N.D. Ohio 1983).

From **Judge Joseph Blumenfeld**, of the U.S. District Court for the District of Connecticut:

"The work of the Berger firm showed a high degree of efficiency and imagination, particularly in the maintenance and management of the national class actions."

In re Master Key Antitrust Litigation, 1977 U.S. Dist. LEXIS 12948, at *35 (Nov. 4, 1977).

Securities & Investor Protection Cases

From **Judge Brantley Starr** of the U.S. District Court for the Northern District of Texas, Dallas Division:

"I think y'all have been a model on how to handle a case like this. So I appreciate the diligence y'all have put in separating the fee negotiations until after the main event is resolved...Everything I see here is in great shape, and really a testament to y'all's diligence and professionalism. So hats off to y'all...So thanks again for your professionalism in handling this case and handling the stipulated settlement. Y'all are model citizens, and so I wish I could send everyone to y'all's school of litigation management."

Howell Family Trust DTD 1/27/2004 v. Hollis Greenlaw, et al., No. 3:18-cv-02864-X (N.D. Tex., March 25, 2021).

From **Judge Jed Rakoff** of the U.S. District Court for the Southern District of New York:

Court stated that lead counsel had made “very full and well-crafted” and “excellent submissions”; that there was a “very fine job done by plaintiffs’ counsel in this case”; and that this was “surely a very good result under all the facts and circumstances.”

In re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation, Master File No. 07-cv-9633(JSR)(DFE) (S.D.N.Y., July 27, 2009).

From **Judge Michael M. Bayson** of the U.S. District Court for the Eastern District of Pennsylvania:

“The Court is aware of and attests to the skill and efficiency of class counsel: they have been diligent in every respect, and their briefs and arguments before the Court were of the highest quality. The firm of Berger Montague took the lead in the Court proceedings; its attorneys were well prepared, articulate and persuasive.”

In re CIGNA Corp. Sec. Litig., 2007 U.S. Dist. LEXIS 51089, at *17-*18 (E.D. Pa. July 13, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“The quality of lawyering on both sides, but I am going to stress now on the plaintiffs’ side, simply has not been exceeded in any case, and we have had some marvelous counsel appear before us and make superb arguments, but they really don’t come any better than Mrs. Savett... [A]nd the arguments we had on the motion to dismiss [Mrs. Savett argued the motion], both sides were fabulous, but plaintiffs’ counsel were as good as they come.”

In re U.S. Bioscience Secs. Litig., No. 92-0678 (E.D. Pa. April 4, 1994).

From **Judge Wayne Andersen** of the U.S. District Court for the Northern District of Illinois:

“[Y]ou have acted the way lawyers at their best ought to act. And I have had a lot of cases...in 15 years now as a judge and I cannot recall a significant case where I felt people were better represented than they are here...I would say this has been the best representation that I have seen.”

In re: Waste Management, Inc. Secs. Litig., No. 97-C 7709 (N.D. Ill. 1999).

From **Chancellor William Chandler, III** of the Delaware Chancery Court:

“All I can tell you, from someone who has only been doing this for roughly 22 years, is that I have yet to see a more fiercely and intensely litigated case than this case. Never in 22 years have I seen counsel going at it, hammer and tong, like they have gone at it in this

case. And I think that's a testimony – Mr. Valihura correctly says that's what they are supposed to do. I recognize that; that is their job, and they were doing it professionally.”

Ginsburg v. Philadelphia Stock Exchange, Inc., No. 2202 (Del. Ch., Oct. 22, 2007).

From **Judge Stewart Dalzell** of the U.S. District Court for the Eastern District of Pennsylvania:

“Thanks to the nimble class counsel, this sum, which once included securities worth \$149.5 million is now all cash. Seizing on an opportunity Rite Aid presented, class counsel first renegotiated what had been stock consideration into Rite Aid Notes and then this year monetized those Notes. Thus, on February 11, 2003, Rite Aid redeemed those Notes from the class, which then received \$145,754,922.00. The class also received \$14,435,104 in interest on the Notes.”

“Co-lead counsel ... here were extraordinarily deft and efficient in handling this most complex matter... they were at least eighteen months ahead of the United States Department of Justice in ferreting out the conduct that ultimately resulted in the write down of over \$1.6 billion in previously reported Rite Aid earnings. In short, it would be hard to equal the skill class counsel demonstrated here.”

In re Rite Aid Corp. Securities Litigation, 269 F. Supp. 2d 603, 605, n.1, 611 (E.D. Pa. 2003).

From **Judge Helen J. Frye**, United States District Judge for the U.S. District Court for the District of Oregon:

“In order to bring about this result [partial settlements then totaling \$54.25 million], Class Counsel were required to devote an unusual amount of time and effort over more than eight years of intense legal litigation which included a four-month long jury trial and full briefing and argument of an appeal before the Ninth Circuit Court of Appeals, and which produced one of the most voluminous case files in the history of this District.”

* * *

“Throughout the course of their representation, the attorneys at Berger Montague and Stoll, Stoll, Berne, Lokting & Shlachter who have worked on this case have exhibited an unusual degree of skill and diligence, and have had to contend with opposing counsel who also displayed unusual skill and diligence.”

In Re Melridge, Inc. Securities Litigation, No. CV 87-1426-FR (D. Ore. April 15, 1996).

From **Judge Marvin Katz** of the U.S. District Court for the Eastern District of Pennsylvania:

“[T]he co-lead attorneys have extensive experience in large class actions, experience that has enabled this case to proceed efficiently and professionally even under short deadlines

and the pressure of handling thousands of documents in a large multi-district action... These counsel have also acted vigorously in their clients' interests...."

* * *

"The management of the case was also of extremely high quality.... [C]lass counsel is of high caliber and has extensive experience in similar class action litigation.... The submissions were of consistently high quality, and class counsel has been notably diligent in preparing filings in a timely manner even when under tight deadlines."

Commenting on class counsel, where the firm served as both co-lead and liaison counsel in ***In re Ikon Office Solutions, Inc. Securities Litigation***, 194 F.R.D. 166, 177, 195 (E.D. Pa. 2000).

From **Judge William K. Thomas**, Senior District Judge for the United States District Court for the Northern District of Ohio:

"In the proceedings it has presided over, this court has become directly familiar with the specialized, highly competent, and effective quality of the legal services performed by Merrill G. Davidoff, Esq. and Martin I. Twersky, Esq. of Berger Montague...."

* * *

"Examination of the experience-studded biographies of the attorneys primarily involved in this litigation and review of their pioneering prosecution of many class actions in antitrust, securities, toxic tort matters and some defense representation in antitrust and other litigation, this court has no difficulty in approving and adopting the hourly rates fixed by Judge Aldrich."

Commenting in ***In re Revco Securities Litigation***, Case No. 1:89CV0593, Order (N.D. Oh. September 14, 1993).

Consumer Protection Cases

From **Judge Paul A. Engelmayer** of the U.S. District Court for the Southern District of New York:

"I know the diligence of counsel and dedication of counsel to the class...Thank you, Ms. Drake. As always I appreciate the – your extraordinary dedication to your – to the class and the very obvious backwards and forwards familiarity you have with the case and level of preparation and articulateness today. It's a pleasure always to have you before me...Class Counsel [] generated this case on their own initiative and at their own risk. Counsel's enterprise and ingenuity merits significant compensation...Counsel here are justifiably proud of the important result that they achieved."

Sept. 22, 2020, Final Approval Hearing, ***Gambles v. Sterling Info., Inc.***, No. 15-cv-9746.

From **Judge Joel Schneider** of the U.S. District Court for the District of New Jersey:

"I do want to compliment all counsel for how they litigated this case in a thoroughly professional manner. All parties were zealously represented in the highest ideals of the profession, legitimately and professionally, and not the usual acrimony we see in these cases...I commend the parties and their counsel for a very workmanlike professional effort."

Transcript of the September 10, 2020 Final Fairness Hearing in **Somogyi, et al. v. Freedom Mortgage Corp.**

From **Judge Harold E. Kahn** of the Superior Court of California County of San Francisco:

"You are extraordinarily impressive. And I thank you for being here, and for your candid, non-evasive response to every question I have. I was extremely skeptical at the outset of this morning. You have allayed all of my concerns and have persuaded me that this is an important issue, and that you have done a great service to the class. And for that reason, I am going to approve your settlement in all respects, including the motion for attorneys' fees. And I congratulate you on your excellent work."

Transcript of the November 7, 2017 Hearing in **Loretta Nesbitt v. Postmates, Inc.**, No. CGC-15-547146

Civil/Human Rights Cases

From **Deputy Treasury Secretary Stuart E. Eizenstat**:

"We must be frank. It was the American lawyers, through the lawsuits they brought in U.S. courts, who placed the long-forgotten wrongs by German companies during the Nazi era on the international agenda. It was their research and their work which highlighted these old injustices and forced us to confront them. Without question, we would not be here without them.... For this dedication and commitment to the victims, we should always be grateful to these lawyers."

In his remarks at the July 17, 2000, signing ceremony for the international agreements which established the German Foundation to act as a funding vehicle for the payment of claims to Holocaust survivors.

Insurance Litigation

From **Judge Janet C. Hall**, of the U.S. District Court of the District of Connecticut:

Noting the “very significant risk in pursuing this action” given its uniqueness in that “there was no prior investigation to rely on in establishing the facts or a legal basis for the case....[and] no other prior or even now similar case involving parties like these plaintiffs and a party like these defendants.” Further, “the quality of the representation provided to the plaintiffs ... in this case has been consistently excellent.... [T]he defendant[s] ... mounted throughout the course of the five years the case pended, an extremely vigorous defense.... [B]ut for counsel’s outstanding work in this case and substantial effort over five years, no member of the class would have recovered a penny.... [I]t was an extremely complex and substantial class ... case ... [with an] outstanding result.”

Regarding the work of Berger Montague attorneys Peter R. Kahana and Steven L. Bloch, among other co-class counsel, in ***Spencer, et al. v. The Hartford Financial Services Group, Inc., et al.***, in the Order approving the \$72.5 million final settlement of this action, dated September 21, 2010 (No. 3:05-cv-1681, D. Conn.).

Customer/Broker Arbitrations

From **Robert E. Conner**, Public Arbitrator with the National Association of Securities Dealers, Inc.:

“[H]aving participated over the last 17 years in 400 arbitrations and trials in various settings, ... the professionalism and the detail and generally the civility of everyone involved has been not just a cause for commentary at the end of these proceedings but between ourselves [the arbitration panel] during the course of them, and ... the detail and the intellectual rigor that went into the documents was fully reflective of the effort that was made in general. I wanted to make that known to everyone and to express my particular respect and admiration.”

About the efforts of Berger Montague shareholders Merrill G. Davidoff and Eric L. Cramer, who achieved a \$1.1 million award for their client, in ***Steinman v. LMP Hedge Fund, et al.***, NASD Case No. 98-04152, at Closing Argument, June 13, 2000.

Employment & Unpaid Wages Cases

From **Judge Timothy R. Rice**, United States Magistrate Judge for the U.S. District Court for the Eastern District of Pennsylvania:

Describing Berger Montague as “some of the finest legal representation in the nation,” who are “ethical, talented, and motivated to help hard working men and women.”

Regarding the work of Berger Montague attorney Camille F. Rodriguez in **Gonzalez v. Veritas Consultant Group, LLC, d/b/a Moravia Health Network**, No. 2:17-cv-1319-TR (E.D. Pa. March 13, 2019).

From **Judge Malachy E. Mannion**, United States District Judge for the U.S. District Court for the Middle District of Pennsylvania:

“At the final approval hearing, class counsel reiterated in detail the arguments set forth in the named plaintiffs’ briefing. … The court lauded the parties for their extensive work in reaching a settlement the court deemed fair and reasonable.

* * *

“The court is confident that [class counsel] are highly skilled in FLSA collective and hybrid actions, as seen by their dealings with the court and the results achieved in both negotiating and handling the settlement to date.”

Acevedo v. Brightview Landscapes, LLC, No. 3:13-cv-2529, 2017 WL 4354809 (M.D. Pa. Oct. 2, 2017).

From **Judge Joseph F. Bataillon**, United States District Judge for the U.S. District Court for the District of Nebraska:

[P]laintiffs’ counsel succeeded in vindicating important rights. … The court is familiar with “donning and doffing” cases and based on the court’s experience, defendant meat packing companies’ litigation conduct generally reflects “what can only be described as a deeply-entrenched resistance to changing their compensation practices to comply with the requirements of FLSA.” (citation omitted). Plaintiffs’ counsel perform a recognized public service in prosecuting these actions as a ‘private Attorney General’ to protect the rights of underrepresented workers.

The plaintiffs have demonstrated that counsel’s services have benefitted the class. … The fundamental policies of the FLSA were vindicated and the rights of the workers were protected.

Regarding the work of Berger Montague among other co-counsel in **Morales v. Farmland Foods, Inc.**, No. 8:08-cv-504, 2013 WL 1704722 (D. Neb. Apr. 18, 2013).

From **Judge Jonathan W. Feldman**, United States Magistrate Judge for the U.S. District Court for the Western District of New York:

“The nature of the instant application obliges the Court to make this point clear: In my fifteen years on the bench, no case has been litigated with more skill, tenacity

and legal professionalism than this case. The clients, corporate and individual, should be proud of the manner in which their legal interests were brought before and presented to the Court by their lawyers and law firms."

and

"...the Court would be remiss if it did not commend class counsel and all those who worked for firms representing the thousands of current and former employees of Kodak for the outstanding job they did in representing the interests of their clients. For the last several years, lead counsel responsibilities were shared by Shanon Carson Their legal work in an extraordinarily complex case was exemplary, their tireless commitment to seeking justice for their clients was unparalleled and their conduct as officers of the court was beyond reproach."

Employees Committed For Justice v. Eastman Kodak, (W.D.N.Y. 2010) (\$21.4 million settlement).

Other Cases

From **Stephen M. Feiler, Ph.D.**, Director of Judicial Education, Supreme Court of Pennsylvania, Administrative Office of Pennsylvania Courts, Mechanicsburg, PA *on behalf of the Common Pleas Court Judges (trial judges) of Pennsylvania*:

"On behalf of the Supreme Court of Pennsylvania and AOPC's Judicial Education Department, thank you for your extraordinary commitment to the *Dealing with Complexities in Civil Litigation* symposia. We appreciate the considerable time you spent preparing and delivering this important course across the state. It is no surprise to me that the judges rated this among the best programs they have attended in recent years."

About the efforts of Berger Montague attorneys Merrill G. Davidoff, Peter Nordberg and David F. Sorensen in planning and presenting a CLE Program to trial judges in the Commonwealth of Pennsylvania.

Dena Young – Senior Counsel

Dena Young is Senior Counsel in the firm's Consumer Protection practice group. She concentrates her practice in the area of complex consumer litigation, prosecuting actions against pharmaceutical and product manufacturers for violations of state and federal law. Ms. Young also fights for victims of child sexual abuse against their offenders and large institutions.

Before joining the firm, Dena worked for prominent law firms in the Philadelphia region where she worked on personal injury and mass tort cases involving dangerous and defective medical devices, pharmaceutical, and consumer products including Talcum Powder, Transvaginal Mesh, Roundup, Risperdal, Viagra, Zofran, and Xarelto. She also assisted in the prosecution of cases

on behalf of the U.S. Government and other government entities for violations of federal and state false claims acts and anti-kickback statutes.

Recently, the Honorable Brian R. Martinotti appointed Dena to serve on the plaintiffs' steering committee (PSC) of MDL 2921 in the *Allergan BIOCELL Textured Breast Implant Products Liability Litigation*, situated in the United States District Court for the District of New Jersey. In this case, Dena represents plaintiffs diagnosed with breast implant associated anaplastic large cell lymphoma (BIA-ALCL), a deadly form of cancer caused by Allergan's textured breast implants.

Ms. Young's prior firm was appointed to the plaintiffs' steering committee (PSC) of MDL 2592 in the *Xarelto (Rivaroxaban) Products Liability Litigation*, in the United States District Court for the Eastern District of Louisiana. Ms. Young served on the law and briefing committee and actively represented the firm in Philadelphia's coordinated proceedings. Ms. Young's preparation for trial of one of the early bellwether cases, *Rush v. Janssen Pharmaceuticals, Inc. et al.* (Case No. 150202947), helped set the stage for the \$775 million Xarelto settlement announced just prior to Ms. Young's trial date.

Presently, Dena serves on the bellwether committee of MDL 3014 in the *Philips Recalled CPAP, Bi-Level Pap, and Mechanical Ventilator Products Litigation*, in the United States District Court for the Western District of Pennsylvania where she collaborates with her peers in reviewing cases for bellwether potential. Dena serves this same important role in the Allergan litigation.

Early in her legal career, Dena represented clients diagnosed with devastating asbestos-related diseases, including mesothelioma and lung cancer. Cases she handled resulted in millions of dollars in settlements for her clients.

During law school, Dena represented defendants in preliminary hearings and misdemeanor trials while working for the Defender Association of Philadelphia. She also clerked for the Animal Protection Litigation section of the United States Humane Society. In 2008-2009, Young worked for the Honorable Renee Cardwell Hughes of Philadelphia's Court of Common Pleas.

Ms. Young was selected as a Pennsylvania Super Lawyer in 2022 and 2023, an honor conferred upon only the top 5% of attorneys in Pennsylvania. She was previously selected as a Pennsylvania Super Lawyer – Rising Star from 2017-2019 and 2020.

Ms. Young earned her J.D., *cum laude*, from Drexel University's Thomas R. Kline School of Law where she founded the School's Student Animal Legal Defense Fund chapter. She earned her B.A. in Anthropology, with a minor in Criminal Justice, from The George Washington University where she graduated with honors.

Dena is admitted to practice in state courts in Pennsylvania and New Jersey, the United States District Courts for the Eastern District of Pennsylvania, the Western District of Pennsylvania and the and the District of New Jersey.

Stephen R. Basser, Partner, Barrack Rodos & Bacine

Barrack Rodos & Bacine (“Barrack”) is a nationally prominent 20-attorney litigation firm with offices in Philadelphia, New York, and San Diego. Barrack possesses a significant depth of class action experience, talent, and financial resources to contribute to this action. The firm has prosecuted major, complex class actions, including consumer, antitrust, and securities class actions, for over 46 years. Barrack has successfully recovered over \$15 billion for class members, with several cases securing recoveries in excess \$1 billion, and has received numerous judicial accolades respecting its work and accomplishments.

Stephen R. Basser, a partner at Barrack, Rodos & Bacine, is a graduate of the American University, Washington D.C. (B.A., with Honors, 1973) and Temple University School of Law, Philadelphia, Pennsylvania (J.D. *cum laude* 1976), where, after being awarded the honor of “Highest Grade and Distinguished Class Performance” by its nationally renowned clinical trial litigation program, he was selected to serve as a student prosecutor under the supervision of the United States Attorney’s Office for the Eastern District of Pennsylvania. Mr. Basser was admitted to the bars of the Supreme Court of Pennsylvania in 1976, and the Supreme Court of California in 1985. He is also a member of the bars of the United States Circuit Courts of Appeals for the Sixth and Ninth Circuits, and the United States District Courts for the Southern, Central, Northern, and Eastern Districts of California, the District of Colorado, the Eastern District of Pennsylvania, the Eastern District of Michigan, and the Eastern District of Wisconsin.

Over his 28 years as a partner with the Barrack firm, Mr. Basser has been a lead counsel, co-lead counsel, executive committee member, and/or principal supporting team attorney in a wide variety of significant, complex mega-class actions, alleging, *inter alia* acts of negligence, misrepresentation, deceptive sales and marketing practices, the design, manufacture and sale of dangerously defective products, automotive vehicles, or machines, violations of the Racketeering Influence Corrupt Organizations Act (“RICO”), and/or the federal and state consumer, antitrust, and securities laws and statutes by domestic and foreign corporations.

He has played a key role in cases involving mechanical, automotive, aeronautical, and manufacturing defects, processes, issues, and products. Prior to joining Barrack, Mr. Basser was a member of a large defense firm based in Philadelphia where he represented several Fortune 500 companies in cases alleging design or manufacturing defect-related damages and personal injuries, including, for example, Pepsico (exploding defectively manufactured bottles, causing blindness); Bell-Sikorsky Helicopters (defective rotor blades causing helicopter failure and serious personal injuries); Foseco Industries (defectively designed ingots used in steel fabrication, causing fire explosion and deaths); Litton Industries (defective street lantern causing permanent injury and severe burns); and Owens-Corning Fiberglass (mass tort cases involving inhalation of toxic asbestos particles causing mesothelioma and asbestosis injury).

Subsequent to joining Barrack, Mr. Basser has served in leadership roles in cases involving NHTSA investigations. For example, he served as plaintiffs' co-lead counsel in *In re Bridgestone Tire Secs. Litig.*, No. 3-010017 (M.D. Tenn.) (settled for \$30 million), which required mastery of complex, highly technical tire and Ford Explorer vehicle rollover related design, engineering, and manufacturing facts and documents, as well as related company representations. In 2020, Mr. Basser was appointed to plaintiffs' executive committee in *In re Toyota Hybrid Brake Defect Litig.*, No. 4:20-CV-00127 ALM (E.D. Tex.), involving defectively designed brake booster pump assembly systems. In 2021, he was appointed to plaintiffs' executive committee in *In re Nissan CVT Defect Litig.*, No. CV-00150 (M.D. Tenn.), concerning the design and manufacture of continuous variable transmissions, in which a recovery valued in excess of \$300 million was approved by the court in March 2022. In late 2022, Mr. Basser was appointed to plaintiffs Executive Committee in *In re Chrysler Pacifica Fire Recall Products Liability Litigation*, Case Number 22-md-3040, (E.D. Mich.), which involves a hybrid vehicle battery spontaneous fire defect that has been the subject of NHTSA investigation.

Mr. Basser played a significant role in assisting plaintiffs' lead counsel in identifying, retaining, and developing cyber-expert witness testimony in *In re Anthem Data Security Breach Litig.*, No. 5:15-md-02617-LHK (N.D. Cal.) (\$115 million recovery). And in April, 2022 - further

indicating his skill and experience with respect to matters involving technical products defects and inhalation of toxic substances - he was enlisted by lead counsel to serve as a member of the Science and Expert Executive Subcommittee in *In re Philips CPAP, Bi-Level PAP Mechanical Ventilator Prods. Liab. Litig.*, No. 21-mc-1230-JFC, MDL No. 3014 (W.D. Pa.), alleging injuries caused by the inhalation or digestion of toxic foam particulate matter and chemical compounds.

Mr. Basser served as a co-lead counsel in *In Re: McKesson HBOC Secs. Litig.*, No. CV-99-20743 RMW (N.D. Cal.), achieving settlements totaling \$1.052 billion. He served as a co-lead and/or *de-facto* executive committee counsel working with a consortium of four firms in the so-called “Senior Annuity Sales and Marketing Practices” class actions litigated from 2005 through 2015, achieving settlements valued in the aggregate between \$552 million and \$1.273 billion, on behalf of senior citizen consumers and asserting claims against several well-known insurance companies under consumer protection and elder abuse statutes, and RICO.

Mr. Basser also has a significant record of accomplishment with respect to first-chair jury trial experience. For example, he was lead counsel and lead trial attorney in the hard fought *In re Apollo Group, Inc. Secs. Litig.*, No. CV 04-2147-PHX-JAT (D. Ariz.), which resulted in a \$145 million recovery in 2012 after a unanimous jury verdict was rendered in favor of the class in 2008 following over two months of trial. United States District Judge James A. Teilborg commented after the successful jury verdict that “trial counsel brought to this courtroom … **extraordinary** talent and preparation,” … professionalism… civility… integrity” adding that “[w]hat I have seen has been truly **exemplary.**” *Id.* (emphasis in original).

Mr. Basser, an “AV Preeminent” peer review rated by Martindale Hubbell, has received repeated “Super Lawyer” recognitions and designations as one of Southern California’s “Top 100 High Stakes Litigators,” and has advanced legal education by giving formal presentations to the Federal Judicial Workshop for Judges of the Ninth Circuit (Feb. 2011), law students at a Vanderbilt Law School symposium entitled “*Battle in The Valley of The Sun; Strategies Tactics and Honor in Litigation*” (Oct. 2013), and at American Association of Justice conferences.

Barrack can and shall commit whatever financial resources and staffing are necessary to zealously prosecute this matter. It is respectfully requested that Stephen R. Basser be appointed as a member of Plaintiffs' Steering Committee.

Milberg.
COLEMAN BRYSON PHILLIPS GROSSMAN

Who We Are

Established by members of Milberg Phillips Grossman LLP, Sanders Phillips Grossman LLC, Greg Coleman Law PC, and Whitfield Bryson LLP, the firm represents plaintiffs in the areas of antitrust, securities, financial fraud, consumer protection, automobile emissions claims, defective drugs and devices, environmental litigation, financial and insurance litigation, and cyber law and security.

For over 50 years, Milberg and its affiliates have been protecting victims' rights and have recovered over \$50 billion for our clients. Our attorneys possess a renowned depth of legal expertise, employ the highest ethical and legal standards, and pride ourselves on providing stellar client service. We have repeatedly been recognized as leaders in the plaintiffs' bar and appointed to leadership roles in prominent national mass torts and class actions.

Milberg challenges corporate wrongdoing through class action, mass tort, consumer, and shareholder rights services, both domestically and globally.

Milberg's previous litigation efforts helped to create a new era of corporate accountability that put big companies on notice. The strategic combination of four leading plaintiffs' firms offers clients expanded capabilities, greater geographical coverage, enhanced financial breadth, and increased operational capacity. It also enables the firm to serve diverse and global clients who are seeking to enforce their rights against well-financed corporations—wherever they operate.

www.milberg.com



Practice Areas

Antitrust & Competition Law

Today, on a global scale, consolidated corporate entities exercise dominating market power, but proper enforcement of antitrust law ensures a fair, competitive marketplace. Milberg prosecutes complex antitrust class actions against large, well-funded corporate defendants in healthcare, technology, agriculture, and manufacturing. Our leading practitioners successfully represent plaintiffs affected by price-fixing, monopolization, monopoly leveraging tying arrangements, exclusive dealing, and refusals to deal. The firm continues aggressively vindicating rights of plaintiffs victimized by antitrust violations, holding companies accountable for anticompetitive behavior.

Complex Litigation

With 50 years of vetted success, Milberg handles complex, high-stakes cases at any stage of the litigation process. Our attorneys have experience litigating complex cases for business and plaintiffs outside of class action context, business torts, contract disputes, anti-SLAPP motions, corporations, LLCs, partnerships, real estate, and intellectual property. The repeated success of our attorneys against well-funded adversaries with top-tier counsel has established Milberg as the go-to firm for complex litigation.

Consumer Products

Milberg's consumer litigation group focuses on protecting victims of deceptive marketing and advertising of goods and services, or those who have bought defective products. Our attorneys are experienced in handling a wide array of consumer protection lawsuits, including breach of contract, failure to warn, false or deceptive advertising of goods and services, faulty, dangerous, or defective products, warranty claims, unfair trade practices, and notable product cases. Milberg has achieved real-world recoveries for clients, often requiring corporations to change the way they do business. Our team of attorneys has extensive experience representing plaintiffs against well-resourced and sophisticated defendants.

Consumer Services

Consumers have rights, and companies providing consumer services have a legal obligation to abide by contractual agreements made with customers. Companies must also follow state and federal laws that prohibit predatory, deceptive, and unscrupulous business practices. Milberg's Consumer Services litigation group protects consumers whose rights have been violated by improperly charged fees, predatory and discriminatory lending, illegal credit reporting practices, and invasion of privacy. We also enforce consumer rights by upholding The Fair Credit Reporting Act and Telephone Consumer Protection Act.

Class Action Lawsuits

Milberg pioneered federal class action litigation is recognized as a leader in defending the rights of victims of corporate and large-scale wrongdoings. We have the manpower, resources, technology, and experience necessary to provide effective representation in nationwide class action lawsuits. Our attorneys have led class actions resulting in settlements up to billions of dollars across a variety of practice areas, including defective consumer products, pharmaceutical drugs, insurance, securities, antitrust, environmental and toxic torts, consumer protection, and breach of contract.

Dangerous Drugs & Devices

For some patients, medication and medical devices improve their lives. For others, the drugs and equipment have questionable benefits, at best, and serious, unintended side effects at worst. Taking on drug and device makers requires a law firm that can stand up to the world's largest, most powerful companies. Our defective drug lawyers have held leadership roles in many national drug and device litigations, recovering billions of dollars in compensation.

Data Breach, Cyber Security & Biometric Data Lawsuits

Technology changes faster than laws regulate it. Staying ahead of legal technical issues requires a law firm that can see the full picture of innovation and apply past lessons to navigate fast-moving developments, putting consumers ahead of corporate interests. Our data breach and privacy lawyers work at the cutting edge of technology and law, creating meaningful checks and balances against technology and the companies that wield it. Cyber security threats continue evolving and posing new consumer risks. Milberg will be there every step of the way to protect consumer privacy and hold big companies accountable.

Environmental and Toxic Torts Litigation

Litigation is key in fighting to preserve healthy ecosystems and hold environmental lawbreakers accountable. But in today's globalized world, pollutants—and polluters—are not always local. Corporations have expanded their reach and ability to cause harm. Our environmental litigation practice focuses on representing clients in mass torts, class actions, multi-district litigation, regulatory enforcement, citizen suits, and other complex environmental and toxic tort matters. The companies involved in harmful environmental practices are large, wealthy, and globally influential, but as an internationally recognized plaintiffs' firm, Milberg has the strength and resources to present clients seeking to enforce their environmental rights against well-financed corporations—wherever they operate.

Finance & Insurance Litigation

Big banks and public insurance firms are obligated by their corporate charters to put shareholders' interests ahead of client interests. However, that doesn't mean they can deceive clients to profit at their expense. Milberg's attorneys handle hundreds of insurance-related disputes, including first party bad faith insurance cases, business interruption cases, and hurricane insurance cases. As one of the nation's top class action law firms, we are well-positioned to pursue insurance bad faith cases on a statewide or nationwide basis.

Public Client Representation

The ability of governments to serve and protect their residents is often threatened by the combination of lower revenues and rising costs. Budget shortfalls are increasing in part because private companies externalize costs, but while corporate profits grow, public interest pays the price. Effectuating meaningful change through litigation, Milberg partners with state and local governments to address the harms facing its residents. Internationally, Milberg's Public Client Practice has achieved success against global powerhouse corporations, including drug, tobacco, mining, and oil and gas companies.

Securities Litigation

Over 50 years ago, Milberg pioneered litigation claims involving investment products, securities, and the banking industry by using class action lawsuits. Our litigation set the standard for case theories, organization, discovery, methods of settlement, and amounts recovered for clients. Milberg continues to aggressively pursue these cases on behalf of institutional and individual investors harmed by financial wrongdoing. Inventors of securities class actions, Milberg has decades of experience holding companies accountable both in the United States and globally.

Whistleblower & Qui Tam

Blowing the whistle on illegal or unethical conduct is a form of legally protected speech. Milberg's whistleblower attorneys have led actions that returned hundreds of millions of dollars in ill-gotten gains, resulting in significant awards of our clients. Our legacy of standing up to corporate power extends to advocating for greater transparency. In addition to representing whistleblowers, we fight back against corporate-backed laws seeking to deter them from making disclosures.

“Scoring impressive victories against companies guilty of outrageous behavior.”

- Forbes

“A powerhouse that compelled miscreant and recalcitrant businesses to pay billions of dollars to aggrieved shareholders and customers”

- New York Times

Recent Leadership Roles

In re: Google Play Consumer Antitrust Litigation, 20-CV-05761 (N.D. Cal.)
In re: Elmiron (Pentosan Polysulfate Sodium) Products Liability Litigation MDL No. 2973
In re: Johnson & Johnson Talcum Powder Products Marketing, Sales Practices & Products Liability Litigation
In re: Blackbaud Data Privacy MDL No. 2972
In re: Paragard IUD Products Liability Litigation MDL No. 2974
In re: Seresto Flea & Tick Collar, Marketing Sales Practices & Product Liability Litigation MDL No. 3009
In re: All-Clad Metalcrafters, LLC, Cookware Marketing and Sales Practices Litigation
In re: Allergan Biocell Textured Breast Implant Product Liability Litigation

In re: Zicam
In re: Guidant Corp. Implantable Defibrillators
In re: Ortho Evra
In re: Yaz
In re: Kugel Mesh
In re: Medtronic Sprint Fidelis Leads
In re: Depuy Pinnacle
In re: Stand 'N Seal
In re: Chantix
In re: Fosamax
In re: Olmesartan
In re: Onglyza (Saxagliptin) And Kombiglyze XR
In re: Risperdal and Invega Product Liability Cases

In re: Mirena
In re: Talcum Powder
In re: Incretin
In re: Chantix
In re: Regla
In re: Levaquin Litigation
In re: Zimmer Nexgen Knee
In re: Fresenius Granuflo
In re: Propecia
In re: Transvaginal Mesh
In re: Fluoroquinolones
In re: Depuy Pinnacle

Notable Recoveries

\$3.2 Billion Settlement - In re: Tyco International Ltd., Securities Litigation, MDL 1335 (D.N.H.)
\$4 Billion Settlement - In re: Prudential Insurance Co. Sales Practice Litigation, No. 95-4704 (D.N.J.)
\$1.14 Billion Settlement - In Re: Nortel Networks Corp. Securities Litigation, No. 01-1855 (S.D.N.Y.)
\$1 Billion-plus Trial Verdict - Vivendi Universal, S.A. Securities Litigation
\$1 Billion Settlement - NASDAQ Market-Makers Antitrust Litigation
\$1 Billion Settlement - W.R. Grace & Co.
\$1 Billion-plus Settlement - Merck & Co., Inc. Securities Litigation
\$775 Million Settlement - Washington Public Power Supply System Securities Litigation

Locations

CHICAGO

227 W. Monroe Street Suite, Suite 2100
Chicago, Illinois 60606

NEW JERSEY

1 Bridge Plaza North, Suite 275
Fort Lee, New Jersey 07024

NEW YORK

100 Garden City Plaza
Garden City, New York 11530

NORTH CAROLINA

900 W. Morgan Street
Raleigh, North Carolina 27603

PUERTO RICO

1311 Avenida Juan Ponce de León
San Juan, Puerto Rico 00907

SEATTLE

1420 Fifth Ave, Suite 2200
Seattle, Washington 98101

SOUTH CAROLINA

825 Lowcountry Blvd, Suite 101
Mount Pleasant, South Carolina 29464

TENNESSEE

800 S. Gay Street, Suite 1100
Knoxville, Tennessee 37929

518 Monroe Street

Nashville, Tennessee 37208

WASHINGTON D.C.

5335 Wisconsin Avenue NW , Suite 440
Washington, D.C., 20015





www.milberg.com

ANDREW D. SCHLICHTER

100 South Fourth Street, Suite 1200, St. Louis, Missouri 63102
aschlichter@uselaws.com | (314) 884-7681

EXPERIENCE

Schlichter Bogard & Denton, LLP, St. Louis, Missouri
Partner and Co-Leader of Complex Litigation Group

January 2014 – present

- Member of three-partner management committee.
- First-chair trial and appellate lawyer, lead plaintiffs' counsel in dozens of class action, railroad, data privacy, fiduciary breach, whistleblower, and other complex actions in federal and state courts throughout the country.
- Recent representative matters include:
 - *Doe v. Apple Inc.*, No. 20-cv-00421-NJR (S.D. Ill.) and *Doe v. Apple*, No. 20-L-206 (St. Clair Cnty., Ill. Cir. Ct.). Lead counsel for putative class of millions of Illinois users of Apple devices in ongoing litigation in federal and state court concerning alleged violations of Illinois's Biometric Information Privacy Act.
 - *Hoots v. H&M International Transportation, Inc.*, No. 18CV-2016-499 (Crittenden Cnty., Ark. Cir. Ct.) and *Hoots v. Miner*, No. MID-L-2881-19 (Middlesex Cnty., N.J. Sup. Ct.). Lead counsel for former railroad employee in litigation related to traumatic injuries suffered at a West Memphis, Arkansas railroad switching facility. In February 2019, obtained \$20.5 million judgment in railroad injury action and subsequently obtained confidential resolution of fiduciary breach action related to defendant's insurance coverage for railroad injuries.
 - *Hughes v. Northwestern University*, No. 16-cv-8157 (N.D. Ill.). Lead counsel for class of more than 20,000 current and former participants in ongoing ERISA fiduciary breach litigation concerning Northwestern University's \$4.1 billion 403(b) retirement plan. Unanimous victory for plaintiff class in U.S. Supreme Court. *Hughes v. Northwestern University*, 142 S.Ct. 737 (2022).
 - *United States ex rel Sanborn v. athenahealth, Inc.*, No. 17-cv-12125 (D. Mass.). Lead counsel for relator in False Claims Act case alleging unlawful kickbacks paid as part of an electronic healthcare records marketing scheme. Obtained \$18.25 million settlement in January 2021.
 - *Vellali v. Yale University*, No. 16-01345-AWT (D. Conn.). Lead counsel for class of more than 20,000 current and former participants in ongoing ERISA fiduciary breach litigation concerning Yale University's \$7.1 billion 403(b) retirement plan.
 - *McGoveran v. Amazon Web Services, Inc.*, No. 20-cv-1399-SB (D. Del.). Lead counsel for putative class of Illinois citizens in ongoing litigation concerning biometric voiceprint technology that allegedly violates Illinois's Biometric Information Privacy Act.
 - *Henderson v. Emory University*, No. 16-cv-2920-CP (N.D. Ga.). Lead counsel for class of more than 35,000 current and former participants in ERISA fiduciary breach

- *King v. Union Pacific Railroad Company*, No. 14SL-CC-01471 (St. Louis Cnty. Cir. Ct.). Represented seriously injured railroad worker in litigation related to traumatic injuries suffered in close clearance incident at industry site. Obtained \$7 million settlement.

Davis Polk & Wardwell LLP, New York, New York
Litigation Associate

October 2006 – December 2013

- Lead teams in complex civil cases and regulatory matters; appear and argue in numerous federal and state trial and appellate courts; author appellate, dispositive, and other briefs; oversee all aspects of discovery and factfinding efforts; present investigation findings.
- Representative matters include federal and state securities actions, bankruptcy litigation, merger litigation, and regulatory matters concerning securities and pharmaceutical products.
- Served as Counsel to New York Chief Judge's Special Commission on the Future of the New York State Courts; received Pro Bono Publico Award from Legal Aid Society.

Hon. David R. Herndon, U.S. District Judge
Southern District of Illinois, East St. Louis, Illinois
Law Clerk

August 2005 – August 2006

- Assisted in preparation of orders and opinions, supported caseload, and managed docket.
- Provided research and other support to Judge Herndon during several trials.

EDUCATION

University of Michigan Law School, Ann Arbor, Michigan
J.D., *cum laude*, May 2005

Executive Editor, *Michigan Law Review*; Jason L. Honigman Award; Raymond K. & John R. Dykema Scholarship Award; Best Oral Argument Award and Honors in Legal Practice

Georgetown University, Washington, D.C.
A.B., *cum laude*, Government and English, May 2002
First Honors (multiple semesters); Dean's List (multiple semesters)

BAR ADMISSIONS

Admitted in Missouri, New York
United States Supreme Court
United States Courts of Appeals for the First, Seventh, and Eighth Circuits
United States District Courts for the Central, Northern, and Southern Districts of Illinois; District of Kansas; Eastern and Western Districts of Missouri; Eastern, Northern, and Southern Districts of New York

Bryant J. Pritchett (AM)
 Justin G. Witkin (FL, MS)
 Douglass A. Kreis (FL)
 Neil D. Overholtz (FL) (1972-2022)
 R. Jason Richards (FL, CO)
 Bobby J. "Brad" Bradford (FL, AL)
 Stephen H. Echsner (FL)
 D. Renée Baggett (FL) †
 Daniel J. Thornburgh (FL, MN)
 Nathan C. Bess (FL) †
 Alexandra B. Echsner-Rasmussen (FL)

* States in which attorney is licensed to practice law
 † Of counsel



AYLSTOCK WITKIN KREIS OVERHOLTZ

[www.AWKOLAW.com](http://www.awkolaw.com)

17 East Main Street, Suite 200 • Pensacola, Florida 32502
 Phone: (850) 202-1010 • Fax: (850) 916-7449

Jennifer M. Hoekstra (LA)
 Chelsie R. Warner (MT, NV, WA)
 S. Mary Liu (CA, FL)
 Samantha M. Katen (FL, NC, CO)
 Caitlyn P. Miller (FL, AL)
 D. Nicole Guntner (FL, NY)
 Marybeth Putnick (DE, NJ) †
 Hannah R. Pfeifler (FL)
 Catherine A. Mitchell (AL)
 Timothy J. Inacio (FL)
 Maury S. Goldstein (FL)

March 14, 2023

The Honorable Benita Y. Pearson
 United States District Judge
 United States District Court for the Northern District of Ohio
 313 Thomas D. Lambros United States Federal Bldg and Courthouse
 125 Market Street
 Youngstown, Ohio 44503

Re: Norfolk Southern Corp., et al, Case No. 4:23-cv-00268

Dear Judge Benita Pearson:

Pursuant to this Honorable Court's Order of March 8, 2023, I respectfully file this application for appointment to the Plaintiffs' Steering Committee ("PSC"). I am a partner with the firm Aylstock, Witkin, Kreis & Overholtz, PLLC and I am willing and available to serve in whatever capacity this Honorable Court sees fit.

Over the course of my legal career, I have demonstrated the ability to work cooperatively with all parties, and I possess all the requisite professional experience and organizational skills to advance this litigation toward resolution. As a member of the PSC, I will completely dedicate myself and my practice to not only meeting but exceeding the obligations required by this role.

For over sixteen years, I have litigated many diverse, complex cases and I have been appointed and/or worked closely with a variety of PSCs in cases scattered around the country. Senior District Judge John R. Padova of the Eastern District of Pennsylvania appointed me to the Plaintiffs' Steering Committee involving thousands of plaintiffs who alleged injuries after implantation of the Essure Medical device. In addition to helping delegate PSC assignments, I deposed numerous corporate witnesses, developed the medical and liability themes, worked closely with expert witnesses, drafted and argued numerous motions and participated in the successful mediation and resolution of the litigation.

In the *In Re Ethicon, Inc. Pelvic Repair Systems Products Liability Litigation, MDL 2327*, I reviewed thousands of documents, deposed many corporate witnesses, 30(b)(6) corporate designees, and other fact witnesses and drafted and argued various legal briefs. I was involved in several trials which resulted in multimillion dollar jury verdicts or mid-trial settlements, including *Engleman v. Ethicon, et al., Case No. 2:13-cv-12936*, where I, along with my co-counsel, obtained a \$20 Million verdict.

In the Abilify MDL, I again played a critical role and my work substantially contributed to the overall common benefit and global settlement in that MDL. In the Abilify MDL, I took the depositions of numerous corporate witnesses, 30(b)(6) corporate designees and bellwether fact witnesses, and developed trial themes. I became an important member of the Abilify litigation team and, along with



others, spent considerable time with our trial consultant focusing the key Abilify trial strategy and creating a trial package, including visual demonstratives, that could be used in any trial throughout the country.

Most recently, in the *3M Products Liability Litigation*, MDL No. 2885 - the largest MDL in history - I worked cooperatively with numerous plaintiff and defense lawyers in nearly every facet of the litigation. Among other things, I helped develop the scientific and liability theories, worked closely with key expert witnesses, negotiated discovery disputes and assisted in or tried 7 bellwether trials, including *Beal v. 3M Co. et al*, Case No. 7:20-cv-00006, where I, along with my partners, achieved a \$77.5M verdict on behalf of Mr. Beal, an army veteran who suffered hearing loss after using 3M's combat arms ear plugs. To date, this is the largest single-plaintiff verdict in the 3M litigation involving defective earplugs 3M sold to our military.

AWKO is a national law firm with over two decades of experience in complex litigation, including toxic tort environmental cases, mass torts, class actions, cryptocurrency litigations and personal injury matters. In addition to 22 attorneys, AWKO employs over 350 staff, including on-site IT specialists and a database administrator and software developer.

Federal judges overseeing numerous multidistrict litigation have appointed AWKO attorneys to leadership positions across numerous nationwide litigations, including the following:

- *In Re: 3M Combat Arms Earplug Prod. Liab. Litig.*, MDL 2885 (N.D. Fla.) (Lead Counsel);
- *In Re: Ethicon, Inc., Pelvic Repair System Prod. Liab. Litig.*, MDL 2327 (Coordin. Co-Lead Counsel and Plaintiff Executive Committee) (overseeing MDLs 2187, 2325, 2326, 2327, 2387, 2440, 2511) and (Co-Lead, overseeing *In Re: Ethicon, Inc.*);
- *In Re: Mentor Corp. Obtape Transobturator Sling Prod. Liab. Litig.*, MDL 2004 (Co-Lead);
- *McLaughlin v. Bayer Essure, Inc., et al.*, 14-7315 (E.D. Pa.) (Co-Lead Counsel and Plaintiff Steering Committee);
- *In Re: Abilify; Prod. Liab. Litig.*, MDL 2734 (N.D. Fla.) (Liaison Counsel, PEC and Co-Chair of the Common Benefit Committee);
- *In Re: Zoloft (Sertraline Hydrochloride) Prod. Liab. Litig.*, MDL 2342 (Coordin. Counsel);
- *In Re: Effexor (Venlafaxine Hydrochloride) Prod. Liab. Litig.*, MDL 2458 (Co-Lead and Multi-District Coordin. Counsel);
- *In Re: Avandia Marketing, Sales Practices and Prod. Liab. Litig.*, MDL 1871 (Co-Lead; Advisory Committee, and Common Benefit Fee Committee);
- *In Re: Elmiron (Pentosan Polysulfate Sodium) Prod. Liab. Litig.*, MDL 2973 (District of N.J.) (PEC);
- *In Re: Proton-Pump Inhibitor Prod. Liab. Litig.*, MDL 2789 (Co-Chair, PEC);
- *In Re: Fluoroquinolone Prod. Liab. Litig.*, MDL 2642 (PEC);
- *In Re: BiometM2a Magnum Hip Implant Prod. Liab. Litig.*, MDL 2391 (PEC);



- *In Re: Incretin Mimetics Prod. Liab. Litig.*, MDL 2452 (PEC);
- *In Re: Pradaxa (Dabigatran Etexilate) Prod. Liab. Litig.*, MDL 2385 (PEC);
- *In Re: Actos (Pioglitazone) Prod. Liab. Litig.*, MDL 2299 (PSC and Pl. Settlement Rev. Comm'ee); and
- *In Re: Xarelto (Rivaroxaban) Prod. Liab. Litig.*, MDL 2592 (PSC).

AWKO has also had significant experience litigating class actions, including the following notable examples:

- *In re: Johnson & Johnson Aerosol Sunscreen Mktg., Sales Prac. & Prods. Liab. Litig.*, MDL Docket No. 3015 (S.D. Fla.);
- *In re: Procter & Gamble Aerosol Prods. Mktg. & Sales Prac. Litig.*, MDL Docket No. 3025 (S.D. Ohio);
- *Bowen v. Energizer Holdings, Inc., et al.*, Case No. 2:21-cv-04356 (W.D. Cal.);
- *Zapatero v. Energizer Holdings, Inc.*, Case No. 1:21-cv-22232 (S.D. Fla.);
- *In re: MCI Non-Subscriber Telephone Rates Litigation*, MDL Docket No. 1275 (S.D. Ill);
- *In re: America Online, Inc. Version 5.0 Software Litigation*, MDL Docket No. 1341 (S.D. Fla);
- *Begley v Ocwen Loan Servicing, LLC*, Case No. 3:16-cv-00149 (N.D. Fla.);
- *In re: Microsoft Antitrust Litigation*, MDL Docket No. 1332 (D. Md.);
- *Baker v. Baptist Hospital, Inc.*, Circuit Court, Santa Rosa County, Florida, Case No. 2010-CA-1591;
- *In re: Shell Defective Gas Litigation*, Circuit Court, Dade County, Florida, Case No. 04-12297-CA-10;
- *Patel v. Citizens Property Ins. Corp.*, Circuit Court, Escambia County, Florida, No. 05-284;
- *Lowry v. Vanguard Fire & Cas. Co.*, Circuit Court, Santa Rosa County, Florida, Case No. 05-674;
- *Hinote, et al. v. Ford Motor Co., et al.*, Circuit Court, Escambia County, Florida, Case No. 04-CA-01658;
- *In re: DryClean USA Litigation*, Circuit Court, Dade County, Florida, Case No. 02-27169-CA-27; and
- *Ouellette v. Wal-Mart*, Circuit Court, Washington County, Florida, Case No. 67-01-CA-32.

In addition to the above, AWKO has experience in environmental toxic tort cases, including successfully resolving a class action against ConocoPhillips brought on behalf of 2,500 residents whose property was devalued as a result of a toxic plume that spread from a location designated by the U.S. Environmental Protection Agency as a superfund site.

In the present matter, AWKO represents a number of individuals who have suffered physical injuries as a result of Norfolk Southern's train derailment. I, along with my firm, are ready and able to immediately commit the necessary resources to finding a fair and reasonable resolution for our clients and will work tirelessly for the common benefit of all involved.



* States in which attorney is licensed to practice law
† Of counsel

17 East Main Street, Suite 200 • Pensacola, Florida 32502
Phone: (850) 202-1010 • Fax: (850) 916-7449

I earned my Bachelor of Arts degree at the University of West Florida and attended Thomas M. Cooley School of Law where I graduated *cum laude* with my Juris Doctor degree. I am presently licensed to practice before all State courts in Florida and Minnesota, the United States District Court for the Northern, Middle and Southern Districts of Florida and the United States District Court of Minnesota.

As a member of the PSC, I will always endeavor to lead through example and hard work. I understand that leading a litigation is not just the appointment of a title, but a great responsibility to ensure that the hard work of complex litigation gets accomplished through a subtle mix of providing direction and support, setting expectations and ensuring they are met, ensuring team members receive assignments commensurate with their skills, working through failures, celebrating successes, and a whole lot of rolling up my sleeves and simply getting to work.

In conclusion, I believe that I possess the requisite professional knowledge, experience, and skills necessary to be appointed to the PSC. While my experience has conferred upon me a wealth of substantive and procedural legal knowledge, it has also engrained in me the ability to facilitate cross-functional cooperation with all co-counsel and opposing counsel. I have demonstrated my willingness and availability, as well as my firm's willingness and availability, to work cooperatively with all counsel involved, and my commitment and my firm's commitment to this litigation. I consider the opportunity to serve as a member of the PSC in this important litigation a tremendous honor and great responsibility. If I am appointed, I will continue to work hard day in and day out to fulfill my duties as set forth by the Court.

Respectfully Submitted,

Daniel J. Thornburgh

Attorney Nicholas T. Amato



Nicholas T. Amato
Named Shareholder

Attorney Nicholas T. Amato has practiced law for over 33 years with the main part of his practice devoted to the preparation and trial of medical malpractice, product liability, automobile negligence, trucking death accidents and other areas of personal injury litigation. He has successfully won jury verdicts and/or settled

his client's claims in amounts ranging into the millions of dollars. Nick also has tried criminal cases, like DUI's and received numerous jury verdict acquittals. In 2021, the Ohio Supreme Court appointed Nick to serve as a member of the Board of Professional Conduct. Since 2014, Nick has served as an acting judge for the East Liverpool Municipal Court. Other areas of Nick's practice include estate administration through Probate Court, Wills, Living Wills, Health Care Powers of Attorney, Financial Powers of Attorney, and Real Estate Transfers, Deeds.



Education

- Ohio Northern University
- Claude W. Pettit College of Law
- 1988 Juris Doctor
- The Ohio State University, 1984 B.A.

Bar Admissions

- Admitted to Practice both Ohio and Pennsylvania
- Admitted to Practice U.S. Supreme Court 1997
- U.S. District Court Northern District of Ohio, 1989
- U.S. District Court Southern District of Ohio, 2017
- United States Tax Court, 1994

- In 2021, the Ohio Supreme Court appointed Nick to serve as a member of the Board of Professional Conduct.
- Since 2016, Nick has served as an acting judge for the East Liverpool Municipal Court.
- Since 2014, Nick has served on the Board of the Columbiana County Port Authority which facilitates cargo movement on the Ohio River and promotes economic development in Columbiana County.